

AMENDED IN ASSEMBLY APRIL 15, 2011

AMENDED IN ASSEMBLY MARCH 24, 2011

AMENDED IN ASSEMBLY MARCH 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 231

**Introduced by Assembly Members V. Manuel Pérez and Alejo
(Coauthors: Assembly Members Bradford, Galgiani,
Roger Hernández, Hueso, Perea, and Solorio)**

February 2, 2011

An act to amend Sections 7070, 7071, 7072, 7072.5, 7073.1, 7076, 7076.1, 7081, 7085, 7085.1, 7085.5, and 7114.2 of, to amend the heading of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of, to add Section 7072.6 to, to repeal Sections 7073.8 and 7073.9 of, and to repeal Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of, the Government Code, and to amend Sections 17053.33, 17053.45, 17053.46, 17053.70, 17235, 23612.2, 23633, 23645, 23646, and 24384.5 of, to amend and repeal Sections 17053.34, 17053.47, 17053.74, 17276.2, 17276.5, 23622.7, 23622.8, ~~and 23634~~ 23634, 24416.2, ~~and 24416.5~~ of, to add Sections 17053.73 ~~and 23622.6~~, 17276.11, 23622.6, ~~and 24416.11~~ to, and to add and repeal Sections 17050 and 23036.3 of, the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 231, as amended, V. Manuel Pérez. Economic development: economic development areas.

(1) The Enterprise Zone Act provides for the designation and oversight by the Department of Housing and Community Development

of various types of economic development areas throughout the state, including enterprise zones, targeted tax areas, local agency military base recovery areas (LAMBRAs), and Manufacturing Enhancement Areas, collectively known as geographically targeted economic development areas, or G-TEDAs. Pursuant to these provisions, qualifying entities in those areas may receive certain tax and regulatory incentives.

This bill would rename the act as the California Economic and Community Development Zone Act.

This bill would delete the provisions governing Manufacturing Enhancement Areas and targeted tax areas, and make various revisions in the requirements for designating and administering enterprise zones and LAMBRAs, and ~~G-TEDA~~ *G-TEDAs* collectively.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone or a LAMBRA, including a credit for a specified percentage of wages paid during the taxable year to a qualified employee, as defined, who is employed by the taxpayer during the taxable year in an enterprise zone or a LAMBRA.

This bill would, with respect to employees hired before January 1, 2011, increase specified requirements for an individual to be a qualified employee for purposes of the enterprise zone hiring credits, and make other specified changes relating to the requirements for a taxpayer to take advantage of the credits.

This bill would, with respect to employees hired after January 1, 2011, create a new enterprise zone and LAMBRA hiring credit, similar to the enterprise zone hiring credit in existing law, except that the credit would be available only for a qualified employee for each of the first 3 years of employment and modify the applicable percentage amounts. This bill would impose specified requirements for a taxpayer to claim this credit, including a registration requirement made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program. This bill would also limit the carryover period to 15 years.

This bill would, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, impose a specified 50% overall limitation on these credits, as provided.

(3) The Personal Income Tax Law and the Corporation Tax Law allow a credit in an amount equal to the amount of sales or use tax paid in connection with qualified property that is purchased and placed in

service during the taxable year by a taxpayer engaged in a trade or business in an enterprise zone, *targeted tax area*, or LAMBRA, and allow unused credits to be carried over indefinitely to subsequent taxable years.

This bill would require the taxpayer to register, as specified, a business in an enterprise zone, *targeted tax area*, or a LAMBRA before the taxpayer can claim a credit, and would limit the carryover period to 15 years. This bill would also impose a specified 50% overall limitation on these credits as provided.

(4) The Personal Income Tax Law and the Corporation Tax Law allow deductions in the amount of net interest received by a taxpayer in payment of a debt of a person or entity engaged in a trade or business in an enterprise zone.

This bill would, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, limit the amount of these deductions to 50% of the net interest received by a taxpayer in payment of debt, as specified.

(5) The Personal Income Tax Law and the Corporation Tax Law allow specified credits for hiring employees in a targeted tax area and manufacturing enhancement area.

This bill would limit the credits to qualified employees hired by a qualified taxpayer before January 1, 2011.

(6) *The Personal Income Tax Law and the Corporation Tax Law allow a deduction for a net operating loss of a person or entity engaged in business in an enterprise zone or a LAMBRA, and any unused net operating losses to be a net operating loss carryover to other years, as specified.*

This bill would allow a deduction for those net operating losses only for taxable years beginning before January 1, 2011, but would allow any unused net operating losses to continue to be carried to other years as provided.

(6)

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7)

(8) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of

Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(8)

(9) This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The heading of Chapter 12.8 (commencing with*
2 *Section 7070) of Division 7 of Title 1 of the Government Code is*
3 *amended to read:*

4
5 CHAPTER 12.8. ~~ENTERPRISE~~ CALIFORNIA ECONOMIC AND
6 COMMUNITY DEVELOPMENT ZONE ACT
7

8 SEC. 2. *Section 7070 of the Government Code is amended to*
9 *read:*

10 7070. (a) This chapter shall be known and may be cited as the
11 ~~Enterprise~~ *California Economic and Community Development*
12 *Zone Act.*

13 (b) *Wherever the term "Enterprise Zone Act" appears in statute*
14 *or regulation, it shall be construed to refer to the California*
15 *Economic and Community Development Zone Act.*

16 SEC. 3. *Section 7071 of the Government Code is amended to*
17 *read:*

18 7071. The Legislature finds and declares as follows:

19 (a) The health, safety, and welfare of the people of California
20 depend upon the development, stability, and expansion of private
21 business, industry, and commerce, and there are certain areas within
22 the state that are economically depressed due to a lack of
23 investment in the private sector. Therefore, it is declared to be the
24 purpose of this chapter to *help stabilize local communities, alleviate*
25 *poverty, and enhance the state's economic prosperity through the*
26 *implementation of public and privately funded programs and*
27 *services that stimulate business and industrial growth in the*
28 *depressed areas of the state* ~~by relaxing regulatory controls that~~
29 ~~impede private investment.~~

1 ***(b) The geographically targeted economic development area***
2 ***(G-TEDA) programs are based on the economic principle that***
3 ***targeting significant incentives to lower income communities allows***
4 ***these communities to more effectively compete for new businesses***
5 ***and retain existing businesses, which results in increased tax***
6 ***revenues, less reliance on social services, and lower public safety***
7 ***costs. Residents and businesses also directly benefit from these***
8 ***more sustainable economic conditions through improved***
9 ***neighborhoods, business expansion, and job creation.***

10 ~~(b) It~~

11 ***(c) Therefore, it is in the economic interest of the state to have***
12 ***one strong, combined, and—business-friendly business- and***
13 ***community development-friendly incentive program to help attract***
14 ***business and industry to the state, to help retain and expand existing***
15 ***state business and industry, and to create increased job***
16 ***opportunities for all Californians.***

17 ~~***(e) No enterprise zone shall be designated in which any***~~
18 ~~***boundary thereof is drawn in a manner so as to include larger stable***~~
19 ~~***businesses or heavily residential areas to the detriment of areas***~~
20 ~~***that are truly economically depressed.***~~

21 ***(d) Nothing in this chapter shall be construed to infringe upon***
22 ***regulations relating to the civil rights, equal employment rights,***
23 ***equal opportunity rights, or fair housing rights of any person.***

24 ***SEC. 4. Section 7072 of the Government Code is amended to***
25 ***read:***

26 ***7072. For purposes of this chapter, the following definitions***
27 ***shall apply:***

28 ***(a) “Department” means the Department of Housing and***
29 ***Community Development.***

30 ***(b) “Date of original designation” means the earlier of the***
31 ***following:***

32 ***(1) The date the eligible area receives designation as an***
33 ***enterprise zone by the department pursuant to this chapter.***

34 ***(2) In the case of an enterprise zone deemed designated pursuant***
35 ***to subdivision (e) of Section 7073, the date the enterprise zone or***
36 ***program area received original designation by the former Trade***
37 ***and Commerce Agency pursuant to Chapter 12.8 (commencing***
38 ***with Section 7070) or Chapter 12.9 (commencing with Section***
39 ***7080), as those chapters read prior to January 1, 1997.***

40 ***(c) “Eligible area” means any of the following:***

1 (1) (A) An area designated as an enterprise zone pursuant to
2 Chapter 12.8 (commencing with Section 7070), as it read prior to
3 January 1, 1997, or as a targeted economic development area,
4 neighborhood development area, or program area pursuant to
5 Chapter 12.9 (commencing with Section 7080), as it read prior to
6 January 1, 1997.

7 ~~(2) A geographic area that, based upon the determination of the~~
8 ~~department, fulfills at least one of the following criteria:~~

9 ~~(A) The proposed geographic area meets the Urban Development~~
10 ~~Action Grant criteria of the United States Department of Housing~~
11 ~~and Urban Development.~~

12 ~~(B) The area within the proposed eligible area has experienced~~
13 ~~plant closures within the past two years affecting more than 100~~
14 ~~workers.~~

15 ~~(C) The city or county has submitted material to the department~~
16 ~~for a finding that the proposed geographic area meets criteria of~~
17 ~~economic distress related to those used in determining eligibility~~
18 ~~under the Urban Development Action Grant Program and is~~
19 ~~therefore an eligible area.~~

20 ~~(D) The area within the proposed zone has a history of~~
21 ~~gang-related activity, whether or not crimes of violence have been~~
22 ~~committed.~~

23 ~~(3) A geographic area that meets at least two of the following~~
24 ~~criteria:~~

25 ~~(B) A geographic area within census tracts of the proposed~~
26 ~~eligible area with a median household income for a family of four~~
27 ~~that does not exceed 80 percent of the statewide median income~~
28 ~~for the most recently available calendar year, as well as meeting~~
29 ~~at least one of the following criteria:~~

30 ~~(A)~~

31 ~~(i) The census tracts within the proposed eligible area have an~~
32 ~~unemployment rate not less than 3 percentage points above the~~
33 ~~statewide average for the most recent calendar year as determined~~
34 ~~by the Employment Development Department.~~

35 ~~(B)~~

36 ~~(ii) The county of census tracts for the proposed eligible area~~
37 ~~has are served by public schools that have more than 70 percent~~
38 ~~of the children enrolled in public school participating in the federal~~
39 ~~free lunch program.~~

1 ~~(C) The median household income for a family of four within~~
2 ~~the census tracts of the proposed eligible area does not exceed 80~~
3 ~~percent of the statewide median income for the most recently~~
4 ~~available calendar year.~~

5 *(iii) The area within the proposed zone has experienced*
6 *significant distress factors, as defined by the department, including,*
7 *but not limited to, a history of significant gang-related activity,*
8 *high crime rates, or a significant number of plant or business*
9 *closures, or all of these.*

10 *(2) The amendments made to this subdivision during the 2011*
11 *portion of the 2011–12 Regular Session shall apply only to requests*
12 *for proposals issued on or after January 1, 2011.*

13 (d) “Enterprise zone” means any area within a city, county, or
14 city and county that is designated as an enterprise zone by the
15 department in accordance with ~~Section~~ Sections 7073 and 7073.3
16 that include an eligible area and a qualifying commercial or
17 industrial area, or both, as defined by the department.

18 (e) “Governing body” means a county board of supervisors or
19 a city council, as appropriate.

20 (f) “G-TEDA” means a geographically targeted economic
21 development area, which is an area designated as an enterprise
22 zone, a Manufacturing Enhancement Area, a targeted tax area, or
23 a local agency military base recovery area.

24 (g) “High-technology industries” includes, but is not limited to,
25 the computer, biological engineering, electronics, and
26 telecommunications industries.

27 (h) “Resident,” unless otherwise defined, means a person whose
28 principal place of residence is within a targeted employment area.

29 (i) ~~(1) “Targeted~~ With respect to a targeted employment area
30 ~~adopted or updated prior to April 1, 2011,~~ “targeted employment
31 area” means an area within a city, county, or city and county that
32 is composed solely of those census tracts designated by the United
33 States Department of Housing and Urban Development as having
34 at least 51 percent of its residents of low- or moderate-income
35 levels, using either the most recent United States ~~Department of~~
36 Census Bureau data available at the time of the original enterprise
37 zone application or the most recent census data available at the
38 time the targeted employment area is designated to determine that
39 eligibility. The purpose of a “targeted employment area” is to
40 encourage businesses in an enterprise zone to hire eligible residents

1 of certain geographic areas within a city, county, or city and county.
2 A targeted employment area may be, but is not required to be, the
3 same as all or part of an enterprise zone. A targeted employment
4 area's boundaries need not be contiguous. A targeted employment
5 area does not need to encompass each eligible census tract within
6 a city, county, or city and county. The governing body of each
7 city, county, or city and county that has jurisdiction of the
8 enterprise zone shall identify those census tracts whose residents
9 are in the most need of this employment targeting. Only those
10 census tracts within the jurisdiction of the city, county, or city and
11 county that has jurisdiction of the enterprise zone may be included
12 in a targeted employment area.

13 (2) At least a part of each eligible census tract within a targeted
14 employment area shall be within the territorial jurisdiction of the
15 city, county, or city and county that has jurisdiction for an
16 enterprise zone. If an eligible census tract encompasses the
17 territorial jurisdiction of two or more local governmental entities,
18 all of those entities shall be a party to the designation of a targeted
19 employment area. However, any one or more of those entities, by
20 resolution or ordinance, may specify that it shall not participate in
21 the application as an applicant, but shall agree to complete all
22 actions stated within the application that apply to its jurisdiction,
23 if the area is designated.

24 (3) Each local governmental entity of each city, county, or city
25 and county that has jurisdiction of an enterprise zone shall approve,
26 by resolution or ordinance, the boundaries of its targeted
27 employment area, regardless of whether a census tract within the
28 proposed targeted employment area is outside the jurisdiction of
29 the local governmental entity.

30 (4) (A) Within 180 days of updated United States census data
31 becoming available, each local governmental entity of each city,
32 county, or city and county that has jurisdiction of an enterprise
33 zone shall approve, by resolution or ordinance, boundaries of its
34 targeted employment area reflecting the new census data. If no
35 changes are necessary to the boundaries based on the most current
36 census data, the enterprise zone may send a letter to the department
37 stating that a review has been undertaken by the respective local
38 governmental entities and no boundary changes are required.

39 (B) A targeted employment area boundary approved prior to
40 the 2000 United States census data becoming available that has

not been reviewed and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.

(5) With respect to a targeted employment area adopted or amended on or after April 1, 2011, "targeted employment area" means an area within a city, county, or city and county that is composed solely of those census block groups designated by the United States Department of Housing and Urban Development as having at least 51 percent of their residents of low-income levels, using the most recent United States Census Bureau data available at the time the targeted employment area is adopted or amended to determine its eligibility.

SEC. 5. Section 7072.5 of the Government Code is amended to read:

7072.5. (a) By April 1, 1998, a governing body that has already designated adopted a target targeted employment area may request, by a resolution of all cities or counties having jurisdiction over the enterprise zone, to redesignate readopt the targeted employment area using more current census data. A targeted employment area shall be comprised of comprise census tracts from only one decennial census.

(b) This section shall apply only to targeted employment areas adopted prior to April 1, 2011.

SEC. 6. Section 7072.6 is added to the Government Code, to read:

7072.6. (a) After receiving notification from the department of being conditionally designated as an enterprise zone, the governing body of the jurisdiction administering the enterprise zone shall adopt a resolution or ordinance adopting a targeted employment area that meets all the conditions of this section and those set forth in paragraph (2) of subdivision (i) of Section 7072, and is consistent with the purposes set forth in this section. If two or more jurisdictions are jointly administering an enterprise zone, a resolution or ordinance adopting the targeted employment area shall be adopted by each governing body.

(b) A targeted employment area serves as the residential base of potential low-income workers who are available to work in

1 *businesses located in an enterprise zone. The purpose of a targeted*
2 *employment area is to help identify neighborhoods of low-income*
3 *workers for the purpose of providing those workers with*
4 *employment assistance, training, and job placement. Businesses*
5 *located in an enterprise zone are encouraged to hire locally to*
6 *help address some of the poverty and economic dislocation that*
7 *led to the area's designation as an enterprise zone.*

8 *(c) (1) A targeted employment area may be, but is not required*
9 *to be, the same as all or part of an enterprise zone. A targeted*
10 *employment area's boundaries need not be contiguous. A targeted*
11 *employment area does not need to encompass each eligible census*
12 *tract or block group within a city, county, or city and county. The*
13 *governing body of each city, county, or city and county that has*
14 *jurisdiction over the zone shall identify those census block groups*
15 *whose residents are in the most need of this employment targeting.*
16 *Only those census block groups within the jurisdiction of the city,*
17 *county, or city and county that have jurisdiction over the zone may*
18 *be included in a targeted employment area.*

19 *(2) At least part of each eligible census block group within a*
20 *targeted employment area shall be within the territorial jurisdiction*
21 *of the city, county, or city and county that has jurisdiction over an*
22 *enterprise zone. If an eligible census tract encompasses the*
23 *territorial jurisdiction of two or more local governmental entities,*
24 *all of those entities shall be a party to the designation of the*
25 *targeted employment area. However, any one or more of those*
26 *entities, by resolution or ordinance, may specify that it or they*
27 *shall not participate in the application as an applicant or*
28 *applicants, but shall agree to complete all actions stated within*
29 *the application that apply to its or their jurisdiction, if the area is*
30 *designated.*

31 *(d) (1) A targeted employment area shall be designated based*
32 *on data from the most current household income data published*
33 *by the United States Census Bureau at the time that the targeted*
34 *employment area is designated or modified, including being*
35 *updated pursuant to paragraph (2).*

36 *(2) Every targeted employment area boundary shall be reviewed*
37 *and updated to the extent necessary to accommodate the new*
38 *household income data provided by the United States Census*
39 *Bureau in its five-year American Community Survey. Each*
40 *governmental entity of each city, county, or city and county that*

1 *has jurisdiction over an enterprise zone shall approve, by*
2 *resolution or ordinance, the boundaries of its targeted employment*
3 *area reflecting the new household data and send a copy of its*
4 *resolution with the changes that are necessary to the boundaries*
5 *based on the most current census data, or the governmental entity*
6 *that has jurisdiction over the zone shall send a letter to the*
7 *department stating that the review has been undertaken by the*
8 *respective local governmental entities and no boundary changes*
9 *are required.*

10 (3) (A) *A targeted employment area boundary that is not*
11 *updated, or for which a letter indicating that no changes are*
12 *necessary has not been received by the department within 180*
13 *days of the release of new household data, is invalidated for a*
14 *period of two years, except as modified by subparagraph (C).*

15 (B) *The department shall send a notice to the Franchise Tax*
16 *Board and the local enterprise zone administrator that the targeted*
17 *employment area is invalid and that no additional employees will*
18 *be certified based on an employee living in a targeted employment*
19 *area, other than a business that has already had one or more*
20 *vouchers certified by the zone pursuant to Sections 17053.74 and*
21 *23622.7 of the Revenue and Taxation Code.*

22 (C) *A business that has previously received certification of an*
23 *employee is exempt from subparagraph (A). The vouchers*
24 *exemption is nontransferable to any other business.*

25 (e) *This section shall apply only to targeted employment areas*
26 *adopted on or after April 1, 2011.*

27 SEC. 7. *Section 7073.1 of the Government Code is amended*
28 *to read:*

29 7073.1. (a) *Except as provided in subdivision (e) (f), any city,*
30 *county, or city and county with an eligible area within its*
31 *jurisdiction may complete a preliminary application for designation*
32 *as an enterprise zone. The applying entity shall establish definitive*
33 *boundaries for the proposed enterprise zone and the targeted*
34 *employment area. An entity may propose zones in areas with*
35 *noncontiguous boundaries, and the department may designate those*
36 *areas as zones if the director determines both of the following:*

37 (1) *The noncontiguous area is needed to implement the*
38 *applicant's economic development strategy.*

(2) The excluded area between the proposed zone boundaries would not, based on the proposed economic strategy, also benefit from the zone designation.

(b) If a census block group or portion of a census block group included in an enterprise zone proposed in an application submitted to the department on or after January 1, 2011, is within, or previously was within, the boundaries of a previously designated enterprise zone, then the aggregate size of the proposed enterprise zone shall not exceed the size of the previously designated enterprise zone by more than 15 percent.

~~(b)~~

(c) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans. For the purposes of this subdivision, important elements of a strategy or plan may include, but are not limited to, all of the following:

(A) An assessment of current financial and community development strengths, needs, and opportunities.

(B) A framework for investment of time, action, and money.

(C) Clear articulation of goals.

(D) Measurable objectives, including targets.

(E) Proposed implementation activities and tasks, including timeframes, and a framework for evaluating performance, including qualitative and quantitative benchmarks.

(F) An identification of local resources, including incentives, the jurisdiction will utilize to implement the strategy or plan and how those resources will help to leverage or maximize the benefit of state resources that become available for enterprise zone communities.

(2) For purposes of this subdivision, ~~local incentives resources~~ may include, but are not limited to, all of the following:

1 (A) The suspension or relaxation of locally originated or
2 modified building codes, zoning laws, general development plans,
3 or rent controls.

4 (B) The elimination or reduction of fees for applications,
5 permits, and local government services.

6 (C) The establishment of a streamlined permit process.

7 (D) Elimination or reduction of construction taxes or business
8 license taxes.

9 (E) The provision or expansion of infrastructure.

10 (F) The targeting of federal block grant moneys, including small
11 cities, education, and health and welfare block grants.

12 (G) The targeting of economic development grants and loan
13 moneys, including grant and loan moneys provided by the United
14 States Department of Housing and Urban Development.

15 (H) The targeting of state and federal job disadvantaged and
16 vocational education grant moneys, including moneys provided
17 by the federal Workforce Investment Act of 1998 (Public Law
18 105-220), or its successor.

19 (I) The targeting of federal or state transportation grant moneys.

20 (J) The targeting of federal or state low-income housing and
21 rental assistance moneys.

22 (K) The use of tax allocation bonds, special assessment bonds,
23 bonds under the Mello-Roos Community Facilities Act of 1982
24 (Chapter 2.5 (commencing with Section 53311) of Part 1 of
25 Division 2 of Title 5), industrial development bonds, revenue
26 bonds, private activity bonds, housing bonds, bonds issued pursuant
27 to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4
28 (commencing with Section 6584) of Chapter 5), certificates of
29 participation, hospital bonds, redevelopment bonds, school bonds,
30 and all special provisions provided for under federal tax law for
31 enterprise community or empowerment zone bonds.

32 *(L) Redevelopment tax increment moneys and local financing*
33 *authorities.*

34 *(M) Federal Workforce Investment Act moneys and programs*
35 *funded with those moneys.*

36 *(N) Federal Community Development Block Grant Program*
37 *moneys.*

38 *(O) CalWORKs funding and other related resources.*

39 *(P) Local education entities, including K–12, adult education,*
40 *community colleges, and public and private universities.*

(3) When designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(4) When reviewing and ranking new enterprise zone applications, the department shall give bonus points to applications from jurisdictions that meet minimum threshold points and ~~at least~~ *two both* of the following criteria:

(A) The percentage of households within the census ~~tracts~~ *block groups* of the proposed enterprise zone area, the income of which is below the poverty level, is at least ~~17.5~~ *20* percent.

(B) The average unemployment rate for the census ~~tracts~~ *block groups* of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

~~(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.~~

(5) Except as modified pursuant to paragraph (4), applications shall be ranked by the appropriateness of the economic development strategy and implementation plan, including all of the following:

(A) The extent the strategy clearly identifies the local resources, incentives, and programs that will be made available to the zone for meeting its goals and objectives.

(B) The extent the strategy provides for attracting private sector investment.

(C) The extent the strategy includes related regional and community-based partnerships for achieving the goals and objectives in the strategy.

(D) The extent the strategy fits within the jurisdiction's overall economic development strategy, including the extent the strategy and implementation plan is appropriate for the local community.

(E) The extent the strategy addresses the hiring and retention of unemployed or underemployed residents or low-income individuals in the proposed zone and surrounding areas.

(F) The extent the strategy sets reasonable and measurable benchmarks, goals, and objectives.

1 (G) The extent the strategy sets forth an appropriate funding
2 schedule for management, oversight, and program delivery within
3 the zone relative to the benchmarks, goals, and objectives in the
4 strategy.

5 (H) The extent that the economic development strategy has a
6 comprehensive incentive package for attracting private investment
7 to the enterprise zone.

8 (e)

9 (d) In evaluating applications for designation, the department
10 shall ensure that applications are not disqualified solely because
11 of technical deficiencies, and shall provide applicants with an
12 opportunity to correct the deficiencies. Applications shall be
13 disqualified if the deficiencies are not corrected within two weeks.

14 (d)

15 (e) Except upon dedesignation pursuant to subdivision (c) of
16 Section 7076.1, Section 7076.2, or Section 7085.1, a designation
17 made by the department shall be binding for a period of 15 years
18 from the date of the original designation.

19 (f) *The applicant shall be required to begin implementation of*
20 *the enterprise zone plan contained in the final application within*
21 *six months after notification of final designation, or the enterprise*
22 *zone shall be dedesignated.*

23 (e)

24 (g) (1) This section shall ~~only~~ apply *only* to enterprise zone
25 applications for which the department has issued a solicitation for
26 new enterprise zone designations on or after January 1, 2007.

27 (2) *The amendments made to this section during the 2011*
28 *portion of the 2011–12 Regular Session shall apply only to*
29 *enterprise zone applications for which the department has issued*
30 *a solicitation for new enterprise zone designations on or after*
31 *January 1, 2011.*

32 SEC. 8. Section 7073.8 of the Government Code is repealed.

33 ~~7073.8. (a) The department shall designate up to two~~
34 ~~Manufacturing Enhancement Areas requested by the governing~~
35 ~~boards of cities each of which shall meet at least the following~~
36 ~~criteria:~~

37 ~~(1) The unemployment rate in the county in which the applicant~~
38 ~~is located has been at least three times the state average from 1990~~
39 ~~to 1995, inclusive.~~

~~(2) The applicant city is, or portions of the city are, designated a federal enterprise community or empowerment zone pursuant to Subchapter U (commencing with Section 1391) of Chapter 1 of Subtitle A of Title 26 of the United States Code.~~

~~(3) The applicant city is located in a Border Environment Cooperation Commission region as specified in Section 3473 of Title 19 of the United States Code.~~

~~(4) At least one of the following:~~

~~(A) The designated area has grown by less than 5 percent in population per year for each of the two years preceding the application date.~~

~~(B) The median household income for the designated area is under twenty-five thousand dollars (\$25,000) per year.~~

~~(C) The designated area has a population of under 20,000 persons according to the 1990 federal census.~~

~~(D) The designated area is located in a rural community.~~

~~(5) An audit of the program shall be made pursuant to Section 7076.1 by the department with the cooperation of the local governing board. The audit shall be used to determine how effective the designation has been in attracting manufacturing facilities and creating new employment opportunities. Continuation of the designation is contingent on evidence of success of the program.~~

~~(b) For purposes of applying any provision of the Revenue and Taxation Code, any Manufacturing Enhancement Area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to this chapter.~~

~~(c) The designation as a Manufacturing Enhancement Area pursuant to this section shall be binding for a period of 15 years, commencing January 1, 1998.~~

SEC. 9. Section 7073.9 of the Government Code is repealed.

~~7073.9. Upon approval by the department of an application by a city, county, or city and county, a manufacturing enhancement area in Imperial County is expanded to the extent proposed, but in no event by more than a 200-acre site that is located in Imperial County and used for purposes of those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, to include definitive boundaries that are contiguous to the manufacturing enhancement~~

1 area. The department shall approve an application for expansion
2 of the manufacturing enhancement area if it determines that the
3 proposed additional territory meets the criteria specified in Section
4 7073.8 to the same extent as the existing territory of the
5 manufacturing area and if all of the following conditions are met:

6 (a) The governing body of each city in which the manufacturing
7 enhancement is located approves an ordinance or resolution
8 approving the proposed expansion of that area.

9 (b) The additional territory proposed to be added to the
10 manufacturing enhancement area is zoned for industrial or
11 commercial use.

12 (c) Basic infrastructure, including, but not limited to, gas, water,
13 electrical service, and sewer systems is available to the additional
14 territory proposed to be added to the manufacturing enhancement
15 area.

16 *SEC. 10. Section 7076 of the Government Code is amended to*
17 *read:*

18 7076. (a) *The department shall serve as a liaison between the*
19 *state and enterprise zone residents, businesses, workers, nonprofit*
20 *organizations, and local governments. State agencies and*
21 *departments shall affirmatively support their statutory*
22 *responsibilities under this chapter and, consistent with their*
23 *statutory duties, respond to requests made by and on the behalf of*
24 *an enterprise zone.*

25 (b) (1) The department shall provide technical assistance to the
26 enterprise zones designated pursuant to this chapter with respect
27 to all of the following activities:

28 (A) Furnish limited onsite assistance to the enterprise zones
29 when appropriate.

30 (B) Ensure that the locality has developed a method to make
31 residents, businesses, and neighborhood organizations aware of
32 the opportunities to participate in the program.

33 (C) Help the locality develop a marketing program for the
34 enterprise zone.

35 (D) Coordinate activities of other state agencies regarding the
36 enterprise zones.

37 (E) Monitor the progress of the program.

38 (F) Help businesses to participate in the program.

(2) Notwithstanding existing law, the provision of services in subparagraphs (A) to (F), inclusive, shall be a high priority of the department.

(3) The department may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this chapter.

~~(b) The applicant shall be required to begin implementation of the enterprise zone plan contained in the final application within six months after notification of final designation or the enterprise zone shall lose its designation.~~

(c) The department shall assess a fee of fifteen dollars (\$15) on each enterprise zone ~~and manufacturing enhancement area~~ for each application for issuance of a certificate pursuant to subdivision (j) of Section 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The department shall collect the fee for deposit into the Enterprise Zone Fund, pursuant to Section 7072.3, for the costs of administering this chapter. The ~~enterprise zone or manufacturing enhancement area~~ administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(d) (1) (A) The department shall establish a registration process for businesses located in a zone that includes, but is not limited to, the creation of a zone business registration form and recommended outreach methods to help inform businesses of the registration process.

(B) The department shall make the registration form available on its Internet Web site. The information sought from a business on the registration form shall include, but not be limited to, all of the following:

(i) The name and location of the business.

(ii) The type of business based on the applicable first three digits of the North American Industry Classification System.

(iii) The size of the business based on gross annual receipts for the year prior to registration.

(iv) The total number of employees of the business and the total number of employees of the business that work within the enterprise zone, for the year prior to registration.

(2) Registration shall be a precondition for claiming an enterprise zone-related tax incentive, including, but not limited

1 *to, the hiring credit, the sales and use tax credit, and the net*
2 *interest deduction; however, a business shall not be required to*
3 *register until six months following the department's establishment*
4 *of the registration process. Businesses shall retain a copy of the*
5 *registration for use in preparation of their tax return.*

6 *(3) The registration information shall be updated at least once*
7 *every five years.*

8 *(e) Certificates for hiring credits shall be processed and*
9 *approved or denied based upon the regulations and administrative*
10 *memoranda in effect as of the date of the application.*
11 *Clarifications, interpretations, and other items contained within*
12 *a memorandum shall be binding upon the department, businesses,*
13 *enterprise zones, and all other applicable entities, as consistent*
14 *with state and federal law, unless the memorandum is modified or*
15 *repealed in writing.*

16 *(f) (1) (A) The department shall maintain, and post on its*
17 *Internet Web site, a catalog of all administrative memoranda in*
18 *effect that implement this chapter, including the subject matter of*
19 *the memoranda and the effective dates of their publication,*
20 *modification, or repeal, along with the text of the memoranda.*

21 *(B) The department shall post on its Internet Web site the*
22 *publication, modification, or repeal of any of those administrative*
23 *memoranda, within 10 business days of that publication,*
24 *modification, or repeal.*

25 *(2) The department shall post on its Internet Web site enterprise*
26 *zone and targeted employment area boundary approvals,*
27 *modifications, and repeals within 10 business days of the approval,*
28 *modification, or repeal becoming final.*

29 *SEC. 11. Section 7076.1 of the Government Code is amended*
30 *to read:*

31 *7076.1. (a) The department may audit the program of any*
32 *jurisdiction in any designated G-TEDA at any time during the*
33 *duration of the designation, as appropriate. However, the*
34 *department shall audit each G-TEDA at least once every five years*
35 *from the date of designation or the operative date of this section,*
36 *whichever is the latest. The matters to be examined in the course*
37 *of an audit shall include an examination of the progress made by*
38 *the G-TEDA toward meeting the goals, objectives, and*
39 *commitments set forth in its original application and the*
40 *department's memorandum of understanding with the G-TEDA.*

(b) The department shall, for each audit, determine a result of superior, pass, or fail in accordance with subdivision (c). The results of each audit shall be based upon the success of the G-TEDA in making substantial and sustained efforts since the later of its designation or last audit to meet the standards, criteria, and conditions contained in the application and the memorandum of understanding (MOU) between the department and the G-TEDA, as may be amended pursuant to the agreement of the G-TEDA and the department. In each audit, the department shall focus upon the G-TEDA's use of the marketing plan, local incentives, financing programs, job development, and program management as described in the application and the MOU. The department shall also evaluate the vouchering plan, staffing levels, budget, and elements unique to each application.

(c) For purposes of subdivision (b), an audit determination of superior, pass, or fail shall be made in accordance with the following:

(1) A G-TEDA will be determined to be superior if each jurisdiction comprising the G-TEDA does all of the following:

(A) Meets 90 to 100 percent of its goals, objectives, and commitments as defined in its application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Demonstrates that it has reviewed and updated its goals, objectives, and commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department.

(C) Identifies to the department's satisfaction that it has incorporated economic development commitments in addition to those commitments previously made in its application.

(2) (A) A G-TEDA will be determined to be passing if each jurisdiction comprising the area meets ~~or exceeds~~ 75 to 90 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or

1 similar commitment may be substituted for an existing commitment
2 of a G-TEDA if it is determined by the department that an original
3 commitment was not realistically practical or is no longer relevant.

4 (B) Any G-TEDA that is determined to be passing may appeal
5 in writing to the department for a determination of superior. Only
6 one appeal may be filed pursuant to this subparagraph with respect
7 to a determination by the department, and may be filed no later
8 than 30 days after the G-TEDA's receipt of the determination to
9 which the appeal pertains. The department shall respond in writing
10 to any appeal that is properly filed pursuant to this subparagraph
11 within 60 days of the date of that filing.

12 (3) (A) A G-TEDA will be determined to be failing if any
13 jurisdiction comprising the G-TEDA fails to meet or exceed 75
14 percent of its goals, objectives, or commitments as defined in its
15 original application, most recent audit, biennial report, and
16 memorandum of understanding with the department, and as
17 determined by the department in consultation with the G-TEDA.
18 An equivalent or similar commitment may be substituted for an
19 existing commitment of a G-TEDA if it is determined by the
20 department that an original commitment was not realistically
21 practical or is no longer relevant.

22 (B) Any G-TEDA that is determined to be failing shall enter
23 into a written agreement with the department that specifies those
24 items that the G-TEDA is required to remedy or improve. Failure
25 of the G-TEDA and the department to negotiate and enter into a
26 written agreement as so described within 60 days of the last day
27 upon which the department is required to deliver a response letter
28 pursuant to subparagraph (C) *of paragraph (4)* shall result in the
29 dedesignation of the G-TEDA on January 1 immediately following
30 the department's written notice of dedesignation to the G-TEDA.

31 A

32 (C) A written agreement entered into pursuant to this
33 ~~subparagraph~~ *paragraph* shall be for a six-month period. If, upon
34 the expiration of the agreement, the department determines that
35 the G-TEDA has not met or implemented at least 75 percent of
36 the conditions set forth in the agreement, the department shall,
37 after immediately providing written notification to each jurisdiction
38 comprising the G-TEDA that the G-TEDA is to be dedesignated;
39 ~~dedesignate~~. *Dedesignation of the G-TEDA is effective on the first*
40 *day of the month next following the date upon which the agreement*

1 expired. If, upon expiration of the agreement, the department
2 determines that the G-TEDA has met or implemented at least 75
3 percent of the conditions set forth in the agreement, the department
4 shall do either of the following:

5 (i) Allow the G-TEDA an additional year, or a longer period in
6 the department's discretion, to meet or implement those conditions
7 in their entirety.

8 (ii) Pursuant to written notice provided immediately to each
9 jurisdiction that comprises the G-TEDA that the G-TEDA is to be
10 dedesignated, dedesignate the G-TEDA effective on January 1
11 immediately following the date of the department's written
12 notification of dedesignation to those jurisdictions.

13 ~~Any~~

14 (D) *Any* business, located within any jurisdiction that comprises
15 a G-TEDA that has been dedesignated, that has elected to avail
16 itself of any state tax incentive specifically applicable to a G-TEDA
17 for any taxable or income year beginning prior to the dedesignation
18 of the G-TEDA may, to the extent the business is otherwise still
19 eligible for those incentives, continue to avail itself of those
20 incentives for a period equal to the remaining life of the G-TEDA.
21 However, any business, located within any jurisdiction that
22 comprises a G-TEDA that has been dedesignated, that has not
23 availed itself of any state tax incentive in the manner described in
24 the preceding sentence may not, after dedesignation of the
25 G-TEDA, avail itself of any state incentive specifically applicable
26 to a G-TEDA.

27 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, a
28 G-TEDA shall be determined to be failing if any jurisdiction
29 comprising the G-TEDA, in the determination of the director,
30 provides funding support in at least three of the previous five years
31 at a level that is less than 75 percent of the amount committed to
32 in the G-TEDA's memorandum of understanding with the
33 department.

34 (B) In the event that a G-TEDA is determined to be failing
35 pursuant to this paragraph, subparagraph (B) of paragraph (3) shall
36 apply.

37 (C) Any G-TEDA that is determined to be failing pursuant to
38 this paragraph may appeal in writing to the department. The appeal
39 shall be filed within 30 days of the G-TEDA's receipt of the
40 determination to which the appeal pertains. The department shall

1 respond in writing to any appeal that is properly filed within 60
2 days of the date of filing.

3 *(d) In undertaking its audit responsibilities pursuant to this*
4 *section, the department shall seek appropriate opportunities to*
5 *provide technical assistance and training to help G-TEDAs address*
6 *inadequacies identified through the audit of the program.*
7 *Assistance may include, but is not limited to, workshops, mentoring*
8 *programs, and referrals to other federal, state, and local public*
9 *and private entities.*

10 ~~(d)~~

11 *(e) (1) For purposes of this section, “dedesignation” means that*
12 *a G-TEDA is no longer a G-TEDA for purposes of either Section*
13 *7073 or 7085.*

14 *(2) Upon notification by the department of the dedesignation*
15 *of a G-TEDA and the end of the appeal period with respect to that*
16 *dedesignation, the department shall initiate an application process*
17 *for a new designation as provided in Section 7073, 7073.8, 7085,*
18 *7097, or 7114.*

19 *(f) In addition to any other oversight activities that the*
20 *department determines are appropriate and necessary, the*
21 *department shall review the progress reports submitted by a*
22 *G-TEDA pursuant to Section 7085.1 and determine whether an*
23 *audit is warranted.*

24 *SEC. 12. Section 7081 of the Government Code is amended to*
25 *read:*

26 *7081. (a) Notwithstanding any other provision of state law,*
27 *and to the extent permitted by federal law, the Employment*
28 *Development Department and the State Department of Education*
29 *shall give high priority to the training of unemployed individuals*
30 *who reside in a targeted employment area or a designated enterprise*
31 *zone. The*

32 *(b) When developing workforce development and training plans*
33 *and strategies, including, but not limited to, federal Workforce*
34 *Development Act funds, a state entity shall consider how the*
35 *G-TEDA programs could be integrated so as to maximize the*
36 *benefits to workers and businesses.*

37 *(c) The Employment Development Department shall, consistent*
38 *with its duties to assist unemployed workers who are registered*
39 *in the one-stop career centers, provide letters to unemployed*
40 *prospective employees that could be used to certify their eligibility*

1 *as a person participating in a program developed pursuant to the*
2 *federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2081 et*
3 *seq.).*

4 *(d) The department may assist localities in designating local*
5 *business, labor, and education consortia to broker activities between*
6 *the employment community and educational and training*
7 *institutions. Any available discretionary funds may be used to*
8 *assist the creation of those consortia.*

9 *(e) Local education entities that administer student work permits*
10 *shall consider how enterprise zone program hiring credits could*
11 *be used to benefit lower income students who apply for work*
12 *permits at their offices.*

13 *SEC. 13. Section 7085 of the Government Code is amended to*
14 *read:*

15 7085. (a) Notwithstanding Section 7550.5, the department
16 shall submit a report to the Legislature every ~~five~~ six years
17 ~~beginning January 1, 1998~~, that evaluates the effect of the program
18 *on retaining and increasing employment among targeted*
19 *populations as described in subdivision (c), public and private*
20 *investment, and incomes, and on state and local tax revenues in*
21 *designated enterprise zones. The report shall include a department*
22 *review of the progress and effectiveness of each enterprise zone,*
23 *including, but not limited to, any efforts made regarding training*
24 *and placement of unemployed individuals pursuant to Section*
25 *7081. The Employment Development Department, the State*
26 *Department of Social Services, and the State Department of*
27 *Education shall, for the purposes of the report, provide the*
28 *department with existing data on unemployed individuals receiving*
29 *training. The Franchise Tax Board shall make available to the*
30 *department and the Legislature aggregate information on the dollar*
31 *value of enterprise zone tax credits that are claimed each year by*
32 *businesses pursuant to Section 7085.5. The Department of General*
33 *Services shall provide information on the use and outcomes that*
34 *the department tracks relating to the enterprise zone procurement*
35 *preference.*

36 (b) An enterprise zone governing body shall provide information
37 at the request of the department as necessary for the department
38 to prepare the report required pursuant to subdivision (a).

39 (c) *Targeted populations included within the report required*
40 *pursuant to subdivision (a) shall include, but not be limited to, the*

1 *disabled, disabled veterans, individuals formerly on forms of*
2 *federal and state assistance, individuals within the targeted*
3 *employment areas, and ex-offenders.*

4 *(d) The base year for the report required pursuant to subdivision*
5 *(a) shall be the calendar year commencing January 1, 2012.*

6 *SEC. 14. Section 7085.1 of the Government Code is amended*
7 *to read:*

8 7085.1. (a) The governing board of the G-TEDA shall report
9 to the department by October 1, 2008, and by that date every other
10 year thereafter, on the activities of the G-TEDA in the previous
11 two fiscal years and its plans for the current and following fiscal
12 year. The biennial report shall include ~~at least both~~ *all* of the
13 following:

14 (1) The progress the G-TEDA has made during the period
15 covered by the report relative to its goals, objectives, and
16 commitments set forth in its original application and the
17 department's memorandum of understanding with the G-TEDA.

18 (2) Identification of the previous two years' funding, including
19 in-kind funding. The previous two years' funding levels shall be
20 compared to the funding levels identified in its original application
21 and the department's memorandum of understanding with the
22 G-TEDA, and the amount identified in the previous year's biennial
23 report. An explanation of any meaningful discrepancies in these
24 amounts shall be provided.

25 (3) *Identification of the financial value of local incentives*
26 *provided during the report period, and of federal and other state*
27 *resources accessed to serve the residents, workers, and businesses*
28 *in the G-TEDA.*

29 (4) *The following information based on the certification*
30 *applications approved in the zones relating to the hiring credit:*

31 (A) *The number of jobs for which certifications have been issued.*

32 (B) *The number of new employees for which certifications have*
33 *been issued.*

34 (C) *The number of employees replacing previous employees for*
35 *which certification, were issued.*

36 (D) *The number of employees by qualified employee category*
37 *pursuant to Sections 17053.74 and 23622.7 of the Revenue and*
38 *Taxation Code.*

39 (E) *The total range and the average, median, and mean*
40 *employee wage rates that were certified.*

1 (F) *The number of businesses obtaining certification for*
2 *qualified employees.*

3 (G) *The industry classification, based on the North American*
4 *Industry Classification System, of businesses obtaining certification*
5 *of qualified employees.*

6 (H) *The distribution of employee certifications among industry*
7 *sectors, based on the North American Industry Classification*
8 *System.*

9 (I) *The distribution of employee certifications by the annual*
10 *receipts and asset value of the business obtaining qualified*
11 *employee certifications.*

12 (J) *The number of state-certified small businesses that submitted*
13 *qualified employee certification applications.*

14 (K) *The number of state-certified disabled veteran owned*
15 *business enterprises that submitted applications.*

16 (b) ~~A copy of the biennial report developed pursuant to~~
17 ~~subdivision (a) shall also be submitted to the legislative bodies of~~
18 ~~the local jurisdictions comprising the G-TEDA. The progress of~~
19 ~~the G-TEDA in meeting the goals, objectives, and commitments~~
20 ~~set forth in the original application and the memorandum of~~
21 ~~understanding with the department shall be reviewed at least~~
22 ~~biennially by these the legislative bodies, either as part of the~~
23 ~~approval of the G-TEDA's annual work plan or separately, at the~~
24 ~~discretion of the legislative body of the local jurisdictions~~
25 ~~comprising the G-TEDA.~~

26 (c) (1) G-TEDAs designated prior to January 1, 2007, shall have
27 until April 15, 2008, to update their benchmarks, goals, objectives,
28 and funding levels for administering the G-TEDA program, in
29 order to make them measurable and conducive to the successful
30 completion of the economic development strategy. The local
31 legislative body and the department shall approve the updated
32 goals and objectives. The updated goals and objectives shall be
33 included as an update to the existing memorandum of
34 understanding between the G-TEDA and the department.

35 (2) G-TEDAs that fail to obtain approved updated goals and
36 objectives by April 15, 2008, shall be dedesignated effective July
37 1, 2008. The Director of Housing and Community Development
38 shall provide notice of prospective dedesignation to the local
39 government no later than May 1, 2008. The director may authorize
40 up to two 60-calendar-day extensions, if the local government and

1 G-TEDA are acting in good faith and the additional time would
2 allow them to meet the requirements of this subdivision. Businesses
3 located within a G-TEDA that have been dedesignated shall
4 continue to have access to tax incentives previously authorized
5 within the G-TEDA pursuant to Section 7082.2.

6 (3) G-TEDAs designated prior to January 1, 2007, are not
7 required to implement the biennial reporting requirements of
8 subdivisions (a) and (b) until October 1, 2009.

9 (4) G-TEDAs that expire prior to January 1, 2010, are not
10 required to meet the conditions of this subdivision.

11 (d) The department shall biennially make available to the
12 Legislature information related to the progress that each G-TEDA
13 is making toward implementing its goals, objectives, and
14 commitments set forth in the original application, the department's
15 memorandum of understanding with the G-TEDA, and the biennial
16 report.

17 (e) *G-TEDAs that fail to submit a timely biennial report to the*
18 *department shall be audited pursuant to Section 7076.1.*

19 *SEC. 15. Section 7085.5 of the Government Code is amended*
20 *to read:*

21 7085.5. (a) The Franchise Tax Board shall annually make
22 available to the department and the Legislature information, by
23 enterprise zone and by city or county, on the dollar value of the
24 enterprise zone tax credits *and other tax related incentives* that are
25 claimed each year by businesses and shall design and distribute
26 forms and instructions that will allow the following information
27 to be accessible:

28 ~~(a)~~

29 (1) The *total* number of jobs for which the hiring credits are
30 claimed.

31 ~~(b) The number of new employees for which hiring credits are~~
32 ~~claimed.~~

33 ~~(c)~~

34 (2) The number of businesses claiming each individual tax
35 credit.

36 ~~(d)~~

37 (3) The nature of the business claiming each individual tax
38 credit.

39 ~~(e)~~

1 (4) The distribution of zone tax incentives among industry
2 groups.

3 ~~(f)~~

4 (5) The distribution of zone tax incentives by the annual receipts
5 and asset value of the business claiming each individual tax credit.

6 (6) *The total amount of capital investments made, as well as*
7 *the value of the total amount of credit claimed by businesses under*
8 *the sales and use tax credit.*

9 ~~(g)~~

10 (7) Any other information that the Franchise Tax Board and the
11 department deem to be important in determining the cost to, and
12 benefit derived by, the taxpayers of the state.

13 (b) *In developing this information, the Franchise Tax Board*
14 *shall review returns from personal and corporate tax returns. The*
15 *totals for each tax incentive shall, at a minimum, be reported*
16 *separately.*

17 SEC. 16. Chapter 12.93 (commencing with Section 7097) of
18 Division 7 of Title 1 of the Government Code is repealed.

19 SEC. 17. Section 7114.2 of the Government Code is amended
20 to read:

21 7114.2. (a) The department shall assess each LAMBRA a fee
22 of fifteen dollars (\$15) for each application for issuance of a
23 certificate pursuant to subdivision (c) of Section 17053.46 of the
24 Revenue and Taxation Code and subdivision (c) of Section 23646
25 of the Revenue and Taxation Code. The department shall collect
26 the fee for deposit into the Enterprise Zone Fund, pursuant to
27 Section 7072.3, for the costs of administering this chapter. The
28 LAMBRA administrator shall collect this fee at the time an
29 application is submitted for issuance of a certificate.

30 (b) The department shall adopt regulations governing the
31 imposition and collection of fees pursuant to this section and the
32 issuance of certificates pursuant to subdivision (c) of Section
33 17053.46 of the Revenue and Taxation Code and subdivision (c)
34 of Section 23646 of the Revenue and Taxation Code. The
35 regulations shall provide for a notice or invoice to fee payers as
36 to the amount and purpose of the fee. The adoption of the
37 regulations shall be deemed to be an emergency and necessary for
38 the immediate preservation of the public peace, health and safety,
39 or general welfare. Notwithstanding subdivision (e) of Section
40 11346.1, the regulations shall remain in effect for no more than

1 360 days unless the agency complies with all the provisions of
2 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
3 3 of Title 2 as required by subdivision (e) of Section 11346.1.

4 (c) (1) (A) *The department shall establish a registration process*
5 *for businesses located in a LAMBRA that includes, but is not*
6 *limited to, the creation of a LAMBRA business registration form*
7 *and recommended outreach methods to help inform businesses of*
8 *the registration process.*

9 (B) *The department shall make the registration form available*
10 *on its Internet Web site. The information sought from a business*
11 *on the registration form shall include, but not be limited to, all of*
12 *the following:*

13 (i) *The name and location of the business.*

14 (ii) *The type of business based on the applicable first three digits*
15 *of the North American Industry Classification System.*

16 (iii) *The size of the business based on gross annual receipts for*
17 *the year prior to registration.*

18 (iv) *The total number of employees of the business and the total*
19 *number of employees of the business that work within the LAMBRA,*
20 *for the year prior to registration.*

21 (2) *Registration shall be a precondition for claiming a*
22 *LAMBRA-related tax incentive, including, but not limited to, the*
23 *hiring credit, the sales and use tax credit, and the net interest*
24 *deduction; however, a business shall not be required to register*
25 *until six months following the department's establishment of the*
26 *registration process. Businesses shall retain a copy of the*
27 *registration for use in preparation of their tax return.*

28 (3) *The registration information shall be updated at least once*
29 *every five years.*

30 SEC. 18. *Section 17050 is added to the Revenue and Taxation*
31 *Code, to read:*

32 17050. (a) *Notwithstanding any provision of this part or Part*
33 *10.2 (commencing with Section 18401) to the contrary, for each*
34 *taxable year beginning on or after January 1, 2011, and before*
35 *January 1, 2013, the total of all credits otherwise allowable under*
36 *Sections 17053.33, 17053.45, 17053.46, 17053.70, 17053.73, and*
37 *17053.74, including the carryover of these credits, for the taxable*
38 *year shall not reduce the "net tax," as defined in Section 17039,*
39 *below the applicable amount.*

1 (b) For purposes of this section, the “applicable amount” shall
2 be equal to 50 percent of the “net tax,” as defined in Section
3 17039, within the enterprise zone, targeted tax area, or LAMBRA
4 where the credit was earned, before application of any credits.

5 (c) The amount of any credit otherwise allowable for the taxable
6 year under Sections 17053.45, 17053.46, 17053.70, 17053.73, and
7 17053.74 that is not allowed due to the application of this section
8 shall remain a credit carryover amount as otherwise allowed by
9 this part.

10 (d) The carryover period for any credit that is not allowed due
11 to the application of this section shall be increased by the number
12 of taxable years the credit, or any portion thereof, was not allowed.

13 (e) This section shall not apply to a taxpayer with gross income
14 of less than one million dollars (\$1,000,000) for the taxable year.

15 (f) This section shall remain in effect only until December 1,
16 2013, and as of that date is repealed.

17 SEC. 19. Section 17053.33 of the Revenue and Taxation Code
18 is amended to read:

19 17053.33. (a) For each taxable year beginning on or after
20 January 1, 1998, there shall be allowed as a credit against the “net
21 tax” (as defined in Section 17039) for the taxable year an amount
22 equal to the sales or use tax paid or incurred during the taxable
23 year by the qualified taxpayer in connection with the qualified
24 taxpayer’s purchase of qualified property.

25 (b) For purposes of this section:

26 (1) “Qualified property” means property that meets all of the
27 following requirements:

28 (A) Is any of the following:

29 (i) Machinery and machinery parts used for fabricating,
30 processing, assembling, and manufacturing.

31 (ii) Machinery and machinery parts used for the production of
32 renewable energy resources.

33 (iii) Machinery and machinery parts used for either of the
34 following:

35 (I) Air pollution control mechanisms.

36 (II) Water pollution control mechanisms.

37 (iv) Data processing and communications equipment, such as
38 computers, computer-automated drafting systems, copy machines,
39 telephone systems, and faxes.

1 (v) Motion picture manufacturing equipment central to
2 production and post production, such as cameras, audio recorders,
3 and digital image and sound processing equipment.

4 (B) The total cost of qualified property purchased and placed
5 in service in any taxable year that may be taken into account by
6 any qualified taxpayer for purposes of claiming this credit shall
7 not exceed one million dollars (\$1,000,000).

8 (C) The qualified property is used by the qualified taxpayer
9 exclusively in a targeted tax area.

10 (D) The qualified property is purchased and placed in service
11 before the date the targeted tax area designation expires, is revoked,
12 is no longer binding, or becomes inoperative.

13 (2) (A) “Qualified taxpayer” means a person or entity that meets
14 both of the following:

15 (i) Is engaged in a trade or business within a targeted tax area
16 designated pursuant to Chapter 12.93 (commencing with Section
17 7097) of Division 7 of Title 1 of the Government Code.

18 (ii) Is engaged in those lines of business described in Codes
19 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
20 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
21 of the Standard Industrial Classification (SIC) Manual published
22 by the United States Office of Management and Budget, 1987
23 edition.

24 (B) In the case of any pass-through entity, the determination of
25 whether a taxpayer is a qualified taxpayer under this section shall
26 be made at the entity level and any credit under this section or
27 Section 23633 shall be allowed to the pass-through entity and
28 passed through to the partners or shareholders in accordance with
29 applicable provisions of this part or Part 11 (commencing with
30 Section 23001). For purposes of this subparagraph, the term
31 “pass-through entity” means any partnership or S corporation.

32 (3) “Targeted tax area” means the area designated pursuant to
33 Chapter 12.93 (commencing with Section 7097) of Division 7 of
34 Title 1 of the Government Code.

35 (c) If the qualified taxpayer is allowed a credit for qualified
36 property pursuant to this section, only one credit shall be allowed
37 to the taxpayer under this part with respect to that qualified
38 property.

39 (d) If the qualified taxpayer has purchased property upon which
40 a use tax has been paid or incurred, the credit provided by this

1 section shall be allowed only if qualified property of a comparable
2 quality and price is not timely available for purchase in this state.

3 (e) In the case where the credit otherwise allowed under this
4 section exceeds the “net tax” for the taxable year, that portion of
5 the credit that exceeds the “net tax” may be carried over and added
6 to the credit, if any, in the following year, and *the* succeeding 14
7 years if necessary, until the credit is exhausted. The credit shall
8 be applied first to the earliest taxable years possible.

9 (f) Any qualified taxpayer who elects to be subject to this section
10 shall not be entitled to increase the basis of the qualified property
11 as otherwise required by Section 164(a) of the Internal Revenue
12 Code with respect to sales or use tax paid or incurred in connection
13 with the qualified taxpayer’s purchase of qualified property.

14 (g) (1) The amount of the credit otherwise allowed under this
15 section and Section 17053.34, including any credit carryover from
16 prior years, that may reduce the “net tax” for the taxable year shall
17 not exceed the amount of tax that would be imposed on the
18 qualified taxpayer’s business income attributable to the targeted
19 tax area determined as if that attributable income represented all
20 of the income of the qualified taxpayer subject to tax under this
21 part.

22 (2) Attributable income shall be that portion of the taxpayer’s
23 California source business income that is apportioned to the
24 targeted tax area. For that purpose, the taxpayer’s business income
25 attributable to sources in this state first shall be determined in
26 accordance with Chapter 17 (commencing with Section 25101) of
27 Part 11. That business income shall be further apportioned to the
28 targeted tax area in accordance with Article 2 (commencing with
29 Section 25120) of Chapter 17 of Part 11, modified for purposes
30 of this section in accordance with paragraph (3).

31 (3) Business income shall be apportioned to the targeted tax
32 area by multiplying the total California business income of the
33 taxpayer by a fraction, the numerator of which is the property
34 factor plus the payroll factor, and the denominator of which is two.
35 For purposes of this paragraph:

36 (A) The property factor is a fraction, the numerator of which is
37 the average value of the taxpayer’s real and tangible personal
38 property owned or rented and used in the targeted tax area during
39 the taxable year, and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the targeted tax area during
5 the taxable year for compensation, and the denominator of which
6 is the total compensation paid by the taxpayer in this state during
7 the taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, as if it were an amount exceeding the "net tax" for the
11 taxable year, as provided in subdivision (e).

12 (5) In the event that a credit carryover is allowable under
13 subdivision (e) for any taxable year after the targeted tax area
14 designation has expired, has been revoked, is no longer binding,
15 or has become inoperative, the targeted tax area shall be deemed
16 to remain in existence for purposes of computing the limitation
17 specified in this subdivision.

18 *(h) A taxpayer shall be required to register a business pursuant*
19 *Chapter 12.93 (commencing with Section 7097) of Division 7 of*
20 *Title 1 of the Government Code, and shall state under penalty of*
21 *perjury that the taxpayer is a registered business in one or more*
22 *targeted tax areas, as a condition of claiming a credit under this*
23 *section.*

24 ~~(h)~~
25 (i) The amendments made to this section by the act adding this
26 subdivision Chapter 323 of the Statutes of 1998 shall apply to
27 taxable years beginning on or after January 1, 1998.

28 (j) The amendments made to this section by the act adding this
29 subdivision shall apply only to taxable years beginning on or after
30 January 1, 2011.

31 SEC. 20. Section 17053.34 of the Revenue and Taxation Code
32 is amended to read:

33 17053.34. (a) For each taxable year beginning on or after
34 January 1, 1998, there shall be allowed a credit against the "net
35 tax" (as defined in Section 17039) to a qualified taxpayer who
36 employs a qualified employee in a targeted tax area during the
37 taxable year. The credit shall be equal to the sum of each of the
38 following:

39 (1) Fifty percent of qualified wages in the first year of
40 employment.

1 (2) Forty percent of qualified wages in the second year of
2 employment.

3 (3) Thirty percent of qualified wages in the third year of
4 employment.

5 (4) Twenty percent of qualified wages in the fourth year of
6 employment.

7 (5) Ten percent of qualified wages in the fifth year of
8 employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) That portion of wages paid or incurred by the qualified
12 taxpayer during the taxable year to qualified employees that does
13 not exceed 150 percent of the minimum wage.

14 (B) Wages received during the 60-month period beginning with
15 the first day the employee commences employment with the
16 qualified taxpayer. Reemployment in connection with any increase,
17 including a regularly occurring seasonal increase, in the trade or
18 business operations of the qualified taxpayer does not constitute
19 commencement of employment for purposes of this section.

20 (C) Qualified wages do not include any wages paid or incurred
21 by the qualified taxpayer on or after the targeted tax area expiration
22 date. However, wages paid or incurred with respect to qualified
23 employees who are employed by the qualified taxpayer within the
24 targeted tax area within the 60-month period prior to the targeted
25 tax area expiration date shall continue to qualify for the credit
26 under this section after the targeted tax area expiration date, in
27 accordance with all provisions of this section applied as if the
28 targeted tax area designation were still in existence and binding.

29 (2) “Minimum wage” means the wage established by the
30 Industrial Welfare Commission as provided for in Chapter 1
31 (commencing with Section 1171) of Part 4 of Division 2 of the
32 Labor Code.

33 (3) “Targeted tax area expiration date” means the date the
34 targeted tax area designation expires, is revoked, is no longer
35 binding, or becomes inoperative.

36 (4) (A) “Qualified employee” means an individual who *is hired*
37 *by a qualified taxpayer before January 1, 2011, and who* meets
38 all of the following requirements:

39 (i) At least 90 percent of his or her services for the qualified
40 taxpayer during the taxable year are directly related to the conduct

1 of the qualified taxpayer's trade or business located in a targeted
2 tax area.

3 (ii) Performs at least 50 percent of his or her services for the
4 qualified taxpayer during the taxable year in a targeted tax area.

5 (iii) Is hired by the qualified taxpayer after the date of original
6 designation of the area in which services were performed as a
7 targeted tax area.

8 (iv) Is any of the following:

9 ~~(I) Immediately preceding the qualified employee's~~
10 ~~commencement of employment with the qualified taxpayer, was~~
11 ~~a person eligible for services under the federal Job Training~~
12 ~~Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,~~
13 ~~who is receiving, or is eligible to receive, subsidized employment,~~
14 ~~training, or services funded by the federal Job Training Partnership~~
15 ~~Act, or its successor.~~

16 ~~(II) Immediately preceding the qualified employee's~~
17 ~~commencement of employment with the qualified taxpayer, was~~
18 ~~a person eligible to be a voluntary or mandatory registrant under~~
19 ~~the Greater Avenues for Independence Act of 1985 (GAIN)~~
20 ~~provided for pursuant to Article 3.2 (commencing with Section~~
21 ~~11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and~~
22 ~~Institutions Code, or its successor.~~

23 ~~(III)~~

24 ~~(I)~~ Immediately preceding the qualified employee's
25 commencement of employment with the qualified taxpayer, was
26 an economically disadvantaged individual 14 years of age or older.

27 ~~(IV)~~

28 ~~(II)~~ Immediately preceding the qualified employee's
29 commencement of employment with the qualified taxpayer, was
30 a dislocated worker who meets any of the following:

31 (aa) Has been terminated or laid off or who has received a notice
32 of termination or layoff from employment, is eligible for or has
33 exhausted entitlement to unemployment insurance benefits, and
34 is unlikely to return to his or her previous industry or occupation.

35 (bb) Has been terminated or has received a notice of termination
36 of employment as a result of any permanent closure or any
37 substantial layoff at a plant, facility, or enterprise, including an
38 individual who has not received written notification but whose
39 employer has made a public announcement of the closure or layoff.

1 (cc) Is long-term unemployed and has limited opportunities for
2 employment or reemployment in the same or a similar occupation
3 in the area in which the individual resides, including an individual
4 55 years of age or older who may have substantial barriers to
5 employment by reason of age.

6 (dd) Was self-employed (including farmers and ranchers) and
7 is unemployed as a result of general economic conditions in the
8 community in which he or she resides or because of natural
9 disasters.

10 (ee) Was a civilian employee of the Department of Defense
11 employed at a military installation being closed or realigned under
12 the Defense Base Closure and Realignment Act of 1990.

13 (ff) Was an active member of the Armed Forces or National
14 Guard as of September 30, 1990, and was either involuntarily
15 separated or separated pursuant to a special benefits program.

16 (gg) Is a seasonal or migrant worker who experiences chronic
17 seasonal unemployment and underemployment in the agriculture
18 industry, aggravated by continual advancements in technology and
19 mechanization.

20 (hh) Has been terminated or laid off, or has received a notice
21 of termination or layoff, as a consequence of compliance with the
22 *federal* Clean Air Act.

23 ~~(V)~~
24 (III) Immediately preceding the qualified employee's
25 commencement of employment with the qualified taxpayer, was
26 a disabled individual who is eligible for or enrolled in, or has
27 completed a state rehabilitation plan ~~or is~~.

28 (IV) *Immediately preceding the qualified employee's*
29 *commencement of employment with the taxpayer, was a*
30 *service-connected disabled veteran, veteran of the Vietnam era,*
31 *or veteran who is recently separated from military service.*

32 ~~(VI)~~
33 (V) Immediately preceding the qualified employee's
34 commencement of employment with the qualified taxpayer, was
35 an ex-offender. An individual shall be treated as convicted if he
36 or she was placed on probation by a state court without a finding
37 of guilty.

38 ~~(VII)~~

1 (VI) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a person eligible for or a recipient of any of the following:

4 (aa) Federal Supplemental Security Income benefits.

5 (bb) Aid to Families with Dependent Children.

6 (cc) Food stamps.

7 (dd) State and local general assistance.

8 ~~(VIII)~~

9 (VII) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a member of a federally recognized Indian tribe, band, or other
12 group of Native American descent.

13 ~~(IX)~~

14 (VIII) Immediately preceding the qualified employee's
15 commencement of employment with the qualified taxpayer, was
16 a resident of a targeted tax area.

17 ~~(X)~~

18 (IX) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a member
20 of a targeted group as defined in Section 51(d) of the Internal
21 Revenue Code, or its successor.

22 (B) Priority for employment shall be provided to an individual
23 who is enrolled in a qualified program under the federal ~~Job~~
24 ~~Training Partnership Act or the Greater Avenues for Independence~~
25 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~
26 or who is eligible as a member of a targeted group under the Work
27 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
28 or its successor.

29 (5) (A) "Qualified taxpayer" means a person or entity that meets
30 both of the following:

31 (i) Is engaged in a trade or business within a targeted tax area
32 designated pursuant to Chapter 12.93 (commencing with Section
33 7097) of Division 7 of Title 1 of the Government Code.

34 (ii) Is engaged in those lines of business described in Codes
35 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
36 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
37 of the Standard Industrial Classification (SIC) Manual published
38 by the United States Office of Management and Budget, 1987
39 edition.

(B) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23634 shall be allowed to the passthrough entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term “passthrough entity” means any partnership or S corporation.

(6) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county GAIN office~~ *federal Workforce Investment Act of 1998 administrative entity, the local county CalWORKs program office* or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23634,
3 shall apply with respect to determining employment.

4 (2) If an employer acquires the major portion of a trade or
5 business of another employer (hereinafter in this paragraph referred
6 to as the “predecessor”) or the major portion of a separate unit of
7 a trade or business of a predecessor, then, for purposes of applying
8 this section (other than subdivision (f)) for any calendar year ending
9 after that acquisition, the employment relationship between a
10 qualified employee and an employer shall not be treated as
11 terminated if the employee continues to be employed in that trade
12 or business.

13 (f) (1) (A) If the employment, other than seasonal employment,
14 of any qualified employee, with respect to whom qualified wages
15 are taken into account under subdivision (a) is terminated by the
16 qualified taxpayer at any time during the first 270 days of that
17 employment (whether or not consecutive) or before the close of
18 the 270th calendar day after the day in which that employee
19 completes 90 days of employment with the qualified taxpayer, the
20 tax imposed by this part for the taxable year in which that
21 employment is terminated shall be increased by an amount equal
22 to the credit allowed under subdivision (a) for that taxable year
23 and all prior taxable years attributable to qualified wages paid or
24 incurred with respect to that employee.

25 (B) If the seasonal employment of any qualified employee, with
26 respect to whom qualified wages are taken into account under
27 subdivision (a) is not continued by the qualified taxpayer for a
28 period of 270 days of employment during the 60-month period
29 beginning with the day the qualified employee commences seasonal
30 employment with the qualified taxpayer, the tax imposed by this
31 part, for the taxable year that includes the 60th month following
32 the month in which the qualified employee commences seasonal
33 employment with the qualified taxpayer, shall be increased by an
34 amount equal to the credit allowed under subdivision (a) for that
35 taxable year and all prior taxable years attributable to qualified
36 wages paid or incurred with respect to that qualified employee.

37 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
38 any of the following:

39 (i) A termination of employment of a qualified employee who
40 voluntarily leaves the employment of the qualified taxpayer.

1 (ii) A termination of employment of a qualified employee who,
2 before the close of the period referred to in subparagraph (A) of
3 paragraph (1), becomes disabled and unable to perform the services
4 of that employment, unless that disability is removed before the
5 close of that period and the qualified taxpayer fails to offer
6 reemployment to that employee.

7 (iii) A termination of employment of a qualified employee, if
8 it is determined that the termination was due to the misconduct (as
9 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
10 the California Code of Regulations) of that employee.

11 (iv) A termination of employment of a qualified employee due
12 to a substantial reduction in the trade or business operations of the
13 qualified taxpayer.

14 (v) A termination of employment of a qualified employee, if
15 that employee is replaced by other qualified employees so as to
16 create a net increase in both the number of employees and the
17 hours of employment.

18 (B) Subparagraph (B) of paragraph (1) shall not apply to any
19 of the following:

20 (i) A failure to continue the seasonal employment of a qualified
21 employee who voluntarily fails to return to the seasonal
22 employment of the qualified taxpayer.

23 (ii) A failure to continue the seasonal employment of a qualified
24 employee who, before the close of the period referred to in
25 subparagraph (B) of paragraph (1), becomes disabled and unable
26 to perform the services of that seasonal employment, unless that
27 disability is removed before the close of that period and the
28 qualified taxpayer fails to offer seasonal employment to that
29 qualified employee.

30 (iii) A failure to continue the seasonal employment of a qualified
31 employee, if it is determined that the failure to continue the
32 seasonal employment was due to the misconduct (as defined in
33 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
34 Code of Regulations) of that qualified employee.

35 (iv) A failure to continue seasonal employment of a qualified
36 employee due to a substantial reduction in the regular seasonal
37 trade or business operations of the qualified taxpayer.

38 (v) A failure to continue the seasonal employment of a qualified
39 employee, if that qualified employee is replaced by other qualified

1 employees so as to create a net increase in both the number of
2 seasonal employees and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship
4 between the qualified taxpayer and a qualified employee shall not
5 be treated as terminated by reason of a mere change in the form
6 of conducting the trade or business of the qualified taxpayer, if the
7 qualified employee continues to be employed in that trade or
8 business and the qualified taxpayer retains a substantial interest
9 in that trade or business.

10 (3) Any increase in tax under paragraph (1) shall not be treated
11 as tax imposed by this part for purposes of determining the amount
12 of any credit allowable under this part.

13 (g) In the case of an estate or trust, both of the following apply:

14 (1) The qualified wages for any taxable year shall be apportioned
15 between the estate or trust and the beneficiaries on the basis of the
16 income of the estate or trust allocable to each.

17 (2) Any beneficiary to whom any qualified wages have been
18 apportioned under paragraph (1) shall be treated, for purposes of
19 this part, as the employer with respect to those wages.

20 (h) For purposes of this section, “targeted tax area” means an
21 area designated pursuant to Chapter 12.93 (commencing with
22 Section 7097) of Division 7 of Title 1 of the Government Code.

23 (i) In the case where the credit otherwise allowed under this
24 section exceeds the “net tax” for the taxable year, that portion of
25 the credit that exceeds the “net tax” may be carried over and added
26 to the credit, if any, in succeeding taxable years, until the credit is
27 exhausted. The credit shall be applied first to the earliest taxable
28 years possible.

29 (j) (1) The amount of the credit otherwise allowed under this
30 section and Section 17053.33, including any credit carryover from
31 prior years, that may reduce the “net tax” for the taxable year shall
32 not exceed the amount of tax that would be imposed on the
33 qualified taxpayer’s business income attributable to the targeted
34 tax area determined as if that attributable income represented all
35 of the income of the qualified taxpayer subject to tax under this
36 part.

37 (2) Attributable income shall be that portion of the taxpayer’s
38 California source business income that is apportioned to the
39 targeted tax area. For that purpose, the taxpayer’s business income
40 attributable to sources in this state first shall be determined in

1 accordance with Chapter 17 (commencing with Section 25101) of
2 Part 11. That business income shall be further apportioned to the
3 targeted tax area in accordance with Article 2 (commencing with
4 Section 25120) of Chapter 17 of Part 11, modified for purposes
5 of this section in accordance with paragraph (3).

6 (3) Business income shall be apportioned to the targeted tax
7 area by multiplying the total California business income of the
8 taxpayer by a fraction, the numerator of which is the property
9 factor plus the payroll factor, and the denominator of which is two.

10 For purposes of this paragraph:

11 (A) The property factor is a fraction, the numerator of which is
12 the average value of the taxpayer's real and tangible personal
13 property owned or rented and used in the targeted tax area during
14 the taxable year, and the denominator of which is the average value
15 of all the taxpayer's real and tangible personal property owned or
16 rented and used in this state during the taxable year.

17 (B) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the targeted tax area during
19 the taxable year for compensation, and the denominator of which
20 is the total compensation paid by the taxpayer in this state during
21 the taxable year.

22 (4) The portion of any credit remaining, if any, after application
23 of this subdivision, shall be carried over to succeeding taxable
24 years, as if it were an amount exceeding the "net tax" for the
25 taxable year, as provided in subdivision (h).

26 (5) In the event that a credit carryover is allowable under
27 subdivision (h) for any taxable year after the targeted tax area
28 expiration date, the targeted tax area shall be deemed to remain in
29 existence for purposes of computing the limitation specified in
30 this subdivision.

31 *(k) This section shall remain in effect only until January 1, 2017,*
32 *and as of that date is repealed.*

33 *SEC. 21. Section 17053.45 of the Revenue and Taxation Code*
34 *is amended to read:*

35 17053.45. (a) For each taxable year beginning on or after
36 January 1, 1995, there shall be allowed as a credit against the "net
37 tax" (as defined by Section 17039) an amount equal to the sales
38 or use tax paid or incurred by the taxpayer in connection with the
39 purchase of qualified property to the extent that the qualified

1 property does not exceed a value of one million dollars
2 (\$1,000,000).

3 (b) For purposes of this section:

4 (1) "LAMBRA" means a local agency military base recovery
5 area designated in accordance with Section 7114 of the Government
6 Code.

7 (2) "Taxpayer" means a taxpayer that conducts a trade or
8 business within a LAMBRA and, for the first two taxable years,
9 has a net increase in jobs (defined as 2,000 paid hours per employee
10 per year) of one or more employees in the LAMBRA.

11 (A) The net increase in the number of jobs shall be determined
12 by subtracting the total number of full-time employees (defined
13 as 2,000 paid hours per employee per year) the taxpayer employed
14 in this state in the taxable year prior to commencing business
15 operations in the LAMBRA from the total number of full-time
16 employees the taxpayer employed in this state during the second
17 taxable year after commencing business operations in the
18 LAMBRA. For taxpayers who commence doing business in this
19 state with their LAMBRA business operation, the number of
20 employees for the taxable year prior to commencing business
21 operations in the LAMBRA shall be zero. If the taxpayer has a net
22 increase in jobs in the state, the credit shall be allowed only if one
23 or more full-time employees is employed within the LAMBRA.

24 (B) The total number of employees employed in the LAMBRA
25 shall equal the sum of both of the following:

26 (i) The total number of hours worked in the LAMBRA for the
27 taxpayer by employees (not to exceed 2,000 hours per employee)
28 who are paid an hourly wage divided by 2,000.

29 (ii) The total number of months worked in the LAMBRA for
30 the taxpayer by employees who are salaried employees divided
31 by 12.

32 (C) In the case of a taxpayer who first commences doing
33 business in the LAMBRA during the taxable year, for purposes of
34 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
35 "2,000" and "12" shall be multiplied by a fraction, the numerator
36 of which is the number of months of the taxable year that the
37 taxpayer was doing business in the LAMBRA and the denominator
38 of which is 12.

39 (3) "Qualified property" means property that is each of the
40 following:

1 (A) Purchased by the taxpayer for exclusive use in a trade or
2 business conducted within a LAMBRA.

3 (B) Purchased before the date the LAMBRA designation expires,
4 is no longer binding, or becomes inoperative.

5 (C) Any of the following:

6 (i) High technology equipment, including, but not limited to,
7 computers and electronic processing equipment.

8 (ii) Aircraft maintenance equipment, including, but not limited
9 to, engine stands, hydraulic mules, power carts, test equipment,
10 handtools, aircraft start carts, and tugs.

11 (iii) Aircraft components, including, but not limited to, engines,
12 fuel control units, hydraulic pumps, avionics, starts, wheels, and
13 tires.

14 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
15 the Internal Revenue Code.

16 (c) The credit provided under subdivision (a) shall be allowed
17 only for qualified property manufactured in California unless
18 qualified property of a comparable quality and price is not available
19 for timely purchase and delivery from a California manufacturer.

20 (d) In the case where the credit otherwise allowed under this
21 section exceeds the “net tax” for the taxable year, that portion of
22 the credit which exceeds the “net tax” may be carried over and
23 added to the credit, if any, in *the following year, and the succeeding*
24 *14 years if necessary*, until the credit is exhausted. The credit shall
25 be applied first to the earliest taxable years possible.

26 (e) Any taxpayer who elects to be subject to this section shall
27 not be entitled to increase the basis of the property as otherwise
28 required by Section 164(a) of the Internal Revenue Code with
29 respect to sales or use tax paid or incurred in connection with the
30 purchase of qualified property.

31 (f) (1) The amount of credit otherwise allowed under this
32 section and Section 17053.46, including any credit carryover from
33 prior years, that may reduce the “net tax” for the taxable year shall
34 not exceed the amount of tax that would be imposed on the
35 taxpayer’s business income attributed to a LAMBRA determined
36 as if that attributable income represented all the income of the
37 taxpayer subject to tax under this part.

38 (2) Attributable income is that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 LAMBRA. For that purpose, the taxpayer’s business income that

1 is attributable to sources in this state shall first be determined in
2 accordance with Chapter 17 (commencing with Section 25101) of
3 Part 11. That business income shall be further apportioned to the
4 LAMBRA in accordance with Article 2 (commencing with Section
5 25120) of Chapter 17 of Part 11, as modified for purposes of this
6 section in accordance with paragraph (3).

7 (3) Income shall be apportioned to a LAMBRA by multiplying
8 the total California business income of the taxpayer by a fraction,
9 the numerator of which is the property factor, plus the payroll
10 factor, and the denominator of which is two. For purposes of this
11 paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the LAMBRA during the
15 taxable year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the taxable year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the LAMBRA during the
20 taxable year for compensation, and the denominator of which is
21 the total compensation paid by the taxpayer in this state during the
22 taxable year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, as if it were an amount exceeding the "net tax" for the
26 taxable year, as provided in subdivision (d).

27 (g) (1) If the qualified property is disposed of or no longer used
28 by the taxpayer in the LAMBRA, at any time before the close of
29 the second taxable year after the property is placed in service, the
30 amount of the credit previously claimed, with respect to that
31 property, shall be added to the taxpayer's tax liability in the taxable
32 year of that disposition or nonuse.

33 (2) At the close of the second taxable year, if the taxpayer has
34 not increased the number of its employees as determined by
35 paragraph (2) of subdivision (b), then the amount of the credit
36 previously claimed shall be added to the taxpayer's net tax for the
37 taxpayer's second taxable year.

38 (h) If the taxpayer is allowed a credit for qualified property
39 pursuant to this section, only one credit shall be allowed to the
40 taxpayer under this part with respect to that qualified property.

(i) A taxpayer shall be required to register a business pursuant to the Local Agency Military Base Recovery Area Act (Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more LAMBRA's, as a condition of claiming a credit under this section.

(i)

(j) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(k) The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.

SEC. 22. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) ~~Fifty~~Thirty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) ~~Thirty~~Fifty percent of the qualified wages in the third year of employment.

~~(4) Twenty percent of the qualified wages in the fourth year of employment.~~

~~(5) Ten percent of the qualified wages in the fifth year of employment.~~

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) ~~That~~(i) Except as modified by clause (ii), that portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed ~~150~~ 180 percent of the minimum wage.

(ii) For qualified employees who are employed by the taxpayer in manufacturing activities described in Codes 311 to 339,

1 *inclusive, of the North American Industry Classification System*
2 *published by the United States Office of Management and Budget,*
3 *2007 edition, “qualified wages” means that portion of hourly*
4 *wages that does not exceed 202 percent of the minimum wage.*

5 (B) The total amount of qualified wages which may be taken
6 into account for purposes of claiming the credit allowed under this
7 section shall not exceed two million dollars (\$2,000,000) per
8 taxable year.

9 (C) Wages received during the ~~60-month~~ 36-month period
10 beginning with the first day the individual commences employment
11 with the taxpayer. Reemployment in connection with any increase,
12 including a regularly occurring seasonal increase, in the trade or
13 business operations of the qualified taxpayer does not constitute
14 commencement of employment for purposes of this section.

15 (D) Qualified wages do not include any wages paid or incurred
16 by the qualified taxpayer on or after the LAMBRA expiration date.
17 However, wages paid or incurred with respect to qualified
18 disadvantaged individuals or qualified displaced employees who
19 are employed by the qualified taxpayer within the LAMBRA within
20 the ~~60-month~~ 36-month period prior to the LAMBRA expiration
21 date shall continue to qualify for the credit under this section after
22 the LAMBRA expiration date, in accordance with all provisions
23 of this section applied as if the LAMBRA designation were still
24 in existence and binding.

25 (2) “Minimum wage” means the wage established by the
26 Industrial Welfare Commission as provided for in Chapter 1
27 (commencing with Section 1171) of Part 4 of Division 2 of the
28 Labor Code.

29 (3) “LAMBRA” means a local agency military base recovery
30 area designated in accordance with Section 7114 of the Government
31 Code.

32 (4) “Qualified disadvantaged individual” means an individual
33 who satisfies all of the following requirements:

34 (A) (i) At least 90 percent of whose services for the taxpayer
35 during the taxable year are directly related to the conduct of the
36 taxpayer’s trade or business located in a LAMBRA.

37 (ii) Who performs at least 50 percent of his or her services for
38 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 ~~(i) An individual who has been determined eligible for services~~
7 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
8 ~~1501 et seq.).~~

9 ~~(ii) Any voluntary or mandatory registrant under the Greater~~
10 ~~Avenues for Independence Act of 1985 as provided pursuant to~~
11 ~~Article 3.2 (commencing with Section 11320) of Chapter 2 of Part~~
12 ~~3 of Division 9 of the Welfare and Institutions Code.~~

13 ~~(iii)~~

14 ~~(i)~~ An economically disadvantaged individual age 16 years or
15 older.

16 ~~(iv)~~

17 ~~(ii)~~ A dislocated worker who meets any of the following
18 conditions:

19 (I) Has been terminated or laid off or who has received a notice
20 of termination or layoff from employment, is eligible for or has
21 exhausted entitlement to unemployment insurance benefits, and
22 is unlikely to return to his or her previous industry or occupation.

23 (II) Has been terminated or has received a notice of termination
24 of employment as a result of any permanent closure or any
25 substantial layoff at a plant, facility, or enterprise, including an
26 individual who has not received written notification but whose
27 employer has made a public announcement of the closure or layoff.

28 (III) Is long-term unemployed and has limited opportunities for
29 employment or reemployment in the same or a similar occupation
30 in the area in which the individual resides, including an individual
31 55 years of age or older who may have substantial barriers to
32 employment by reason of age.

33 (IV) Was self-employed (including farmers and ranchers) and
34 is unemployed as a result of general economic conditions in the
35 community in which he or she resides or because of natural
36 disasters.

37 (V) Was a civilian employee of the Department of Defense
38 employed at a military installation being closed or realigned under
39 the Defense Base Closure and Realignment Act of 1990.

1 (VI) Was an active member of the Armed Forces or National
2 Guard as of September 30, 1990, and was either involuntarily
3 separated or separated pursuant to a special benefits program.

4 (VII) Experiences chronic seasonal unemployment and
5 underemployment in the agriculture industry, aggravated by
6 continual advancements in technology and mechanization.

7 (VIII) Has been terminated or laid off or has received a notice
8 of termination or layoff as a consequence of compliance with the
9 *federal* Clean Air Act.

10 ~~(v)~~

11 (iii) An individual who is enrolled in or has completed a state
12 rehabilitation plan or is a service-connected disabled veteran,
13 veteran of the Vietnam era, or veteran who is recently separated
14 from military service.

15 ~~(vi)~~

16 (iv) An ex-offender. An individual shall be treated as convicted
17 if he or she was placed on probation by a state court without a
18 finding of guilty.

19 ~~(vii)~~

20 (v) A recipient of:

21 (I) Federal Supplemental Security Income benefits.

22 (II) Aid to Families with Dependent Children.

23 (III) Food stamps.

24 (IV) State and local general assistance.

25 ~~(viii)~~

26 (vi) Is a member of a federally recognized Indian tribe, band,
27 or other group of Native American descent.

28 (5) "Qualified taxpayer" means a taxpayer or partnership that
29 conducts a trade or business within a LAMBRA and, for the first
30 two taxable years, has a net increase in jobs (defined as 2,000 paid
31 hours per employee per year) of one or more employees in the
32 LAMBRA.

33 (A) The net increase in the number of jobs shall be determined
34 by subtracting the total number of full-time employees (defined
35 as 2,000 paid hours per employee per year) the taxpayer employed
36 in this state in the taxable year prior to commencing business
37 operations in the LAMBRA from the total number of full-time
38 employees the taxpayer employed in this state during the second
39 taxable year after commencing business operations in the
40 LAMBRA. For taxpayers who commence doing business in this

1 state with their LAMBRA business operation, the number of
2 employees for the taxable year prior to commencing business
3 operations in the LAMBRA shall be zero. If the taxpayer has a net
4 increase in jobs in the state, the credit shall be allowed only if one
5 or more full-time employees is employed within the LAMBRA.

6 (B) The total number of employees employed in the LAMBRA
7 shall equal the sum of both of the following:

8 (i) The total number of hours worked in the LAMBRA for the
9 taxpayer by employees (not to exceed 2,000 hours per employee)
10 who are paid an hourly wage divided by 2,000.

11 (ii) The total number of months worked in the LAMBRA for
12 the taxpayer by employees who are salaried employees divided
13 by 12.

14 (C) In the case of a taxpayer who first commences doing
15 business in the LAMBRA during the taxable year, for purposes of
16 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
17 “2,000” and “12” shall be multiplied by a fraction, the numerator
18 of which is the number of months of the taxable year that the
19 taxpayer was doing business in the LAMBRA and the denominator
20 of which is 12.

21 (6) “Qualified displaced employee” means an individual who
22 satisfies all of the following requirements:

23 (A) Any civilian or military employee of a base or former base
24 who has been displaced as a result of a federal base closure act.

25 (B) (i) At least 90 percent of whose services for the taxpayer
26 during the taxable year are directly related to the conduct of the
27 taxpayer’s trade or business located in a LAMBRA.

28 (ii) Who performs at least 50 percent of his or her services for
29 the taxpayer during the taxable year in a LAMBRA.

30 (C) Who is hired by the employer after the designation of the
31 area in which services were performed as a LAMBRA.

32 (7) “Seasonal employment” means employment by a qualified
33 taxpayer that has regular and predictable substantial reductions in
34 trade or business operations.

35 (8) “LAMBRA expiration date” means the date the LAMBRA
36 designation expires, is no longer binding, or becomes inoperative.

37 (c) For qualified disadvantaged individuals or qualified displaced
38 employees hired on or after January 1, 2001, the taxpayer shall do
39 both of the following:

1 (1) ~~Obtain~~ *Apply for certification, within 36 months of an*
2 *employee being hired, from the Employment Development*
3 *Department, as permitted by federal law, the local county or city*
4 ~~*Job Training Partnership Act administrative entity, the local county*~~
5 ~~*GAIN office federal Workforce Investment Act of 1998*~~
6 ~~*administrative entity, the local county CalWORKs program office*~~
7 *or social services agency, or the local government administering*
8 *the LAMBRA, a certification that provides that a qualified*
9 *disadvantaged individual or qualified displaced employee meets*
10 *the eligibility requirements specified in subparagraph (C) of*
11 *paragraph (4) of subdivision (b) or subparagraph (A) of paragraph*
12 *(6) of subdivision (b). The Employment Development Department*
13 *may provide preliminary screening and referral to a certifying*
14 *agency. The Department of Housing and Community Development*
15 *shall develop regulations governing the issuance of certificates*
16 *pursuant to Section 7114.2 of the Government Code and shall*
17 *develop forms for this purpose.*

18 (2) Retain a copy of the certification and provide it upon request
19 to the Franchise Tax Board.

20 (d) (1) For purposes of this section, both of the following apply:

21 (A) All employees of trades or businesses that are under
22 common control shall be treated as employed by a single employer.

23 (B) The credit (if any) allowable by this section with respect to
24 each trade or business shall be determined by reference to its
25 proportionate share of the qualified wages giving rise to the credit.

26 The regulations prescribed under this paragraph shall be based
27 on principles similar to the principles that apply in the case of
28 controlled groups of corporations as specified in subdivision (e)
29 of Section 23622.

30 (2) (A) If an employer acquires the major portion of a trade or
31 business of another employer (hereinafter in this paragraph referred
32 to as the “predecessor”) or the major portion of a separate unit of
33 a trade or business of a predecessor, then, for purposes of applying
34 this section (other than subdivision (d)) for any calendar year
35 ending after that acquisition, the employment relationship between
36 an employee and an employer shall not be treated as terminated if
37 the employee continues to be employed in that trade or business.

38 (B) *If a taxpayer relocated to a LAMBRA from within the state,*
39 *the taxpayer shall be allowed a credit only for that number of*
40 *employees that exceeds the number of employees at the previous*

1 *location. The number of employees at the previous location and*
2 *the type of jobs undertaken shall be established by the Employment*
3 *Development Department. Exceptions to this subparagraph shall*
4 *be limited to the following:*

5 *(i) Employees who undertake core work activities or activities*
6 *that are the primary job duties of the employee that are*
7 *significantly different from those activities at the previous location,*
8 *as determined by the Employment Development Department.*

9 *(ii) Employees of taxpayers that receive a bona fide offer to*
10 *relocate to another state.*

11 *(iii) Employees who relocate as a result of a natural disaster,*
12 *civic unrest, or eminent domain proceeding.*

13 (e) (1) (A) If the employment, other than seasonal employment,
14 of any employee, with respect to whom qualified wages are taken
15 into account under subdivision (a) is terminated by the taxpayer
16 at any time during the first ~~270~~ 300 days of that employment
17 (whether or not consecutive) or before the close of the ~~270th~~ 300th
18 calendar day after the day in which that employee completes 90
19 days of employment with the taxpayer, the tax imposed by this
20 part for the taxable year in which that employment is terminated
21 shall be increased by an amount (determined under those
22 regulations) equal to the credit allowed under subdivision (a) for
23 that taxable year and all prior taxable years attributable to qualified
24 wages paid or incurred with respect to that employee.

25 (B) If the seasonal employment of any qualified disadvantaged
26 individual, with respect to whom qualified wages are taken into
27 account under subdivision (a) is not continued by the qualified
28 taxpayer for a period of ~~270~~ 300 days of employment during the
29 ~~60-month~~ 36-month period beginning with the day the qualified
30 disadvantaged individual commences seasonal employment with
31 the qualified taxpayer, the tax imposed by this part, for the taxable
32 year that includes the ~~60th~~ 36th month following the month in
33 which the qualified disadvantaged individual commences seasonal
34 employment with the qualified taxpayer, shall be increased by an
35 amount equal to the credit allowed under subdivision (a) for that
36 taxable year and all prior taxable years attributable to qualified
37 wages paid or incurred with respect to that qualified disadvantaged
38 individual.

39 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
40 any of the following:

1 (i) A termination of employment of an employee who voluntarily
2 leaves the employment of the taxpayer.

3 (ii) A termination of employment of an individual who, before
4 the close of the period referred to in subparagraph (A) of paragraph
5 (1), becomes disabled to perform the services of that employment,
6 unless that disability is removed before the close of that period
7 and the taxpayer fails to offer reemployment to that individual.

8 (iii) A termination of employment of an individual, if it is
9 determined that the termination was due to the misconduct (as
10 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
11 the California Code of Regulations) of that individual.

12 (iv) A termination of employment of an individual due to a
13 substantial reduction in the trade or business operations of the
14 taxpayer.

15 (v) A termination of employment of an individual, if that
16 individual is replaced by other qualified employees so as to create
17 a net increase in both the number of employees and the hours of
18 employment.

19 (B) Subparagraph (B) of paragraph (1) shall not apply to any
20 of the following:

21 (i) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual who voluntarily fails to return to the
23 seasonal employment of the qualified taxpayer.

24 (ii) A failure to continue the seasonal employment of a qualified
25 disadvantaged individual who, before the close of the period
26 referred to in subparagraph (B) of paragraph (1), becomes disabled
27 and unable to perform the services of that seasonal employment,
28 unless that disability is removed before the close of that period
29 and the qualified taxpayer fails to offer seasonal employment to
30 that individual.

31 (iii) A failure to continue the seasonal employment of a qualified
32 disadvantaged individual, if it is determined that the failure to
33 continue the seasonal employment was due to the misconduct (as
34 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
35 the California Code of Regulations) of that qualified disadvantaged
36 individual.

37 (iv) A failure to continue seasonal employment of a qualified
38 disadvantaged individual due to a substantial reduction in the
39 regular seasonal trade or business operations of the qualified
40 taxpayer.

1 (v) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual, if that individual is replaced by other
3 qualified displaced employees so as to create a net increase in both
4 the number of seasonal employees and the hours of seasonal
5 employment.

6 (C) For purposes of paragraph (1), the employment relationship
7 between the taxpayer and an employee shall not be treated as
8 terminated by reason of a mere change in the form of conducting
9 the trade or business of the taxpayer, if the employee continues to
10 be employed in that trade or business and the taxpayer retains a
11 substantial interest in that trade or business.

12 (3) Any increase in tax under paragraph (1) shall not be treated
13 as tax imposed by this part for purposes of determining the amount
14 of any credit allowable under this part.

15 (4) At the close of the second taxable year, if the taxpayer has
16 not increased the number of its employees as determined by
17 paragraph (5) of subdivision (b), then the amount of the credit
18 previously claimed shall be added to the taxpayer's net tax for the
19 taxpayer's second taxable year.

20 (f) In the case of an estate or trust, both of the following apply:

21 (1) The qualified wages for any taxable year shall be apportioned
22 between the estate or trust and the beneficiaries on the basis of the
23 income of the estate or trust allocable to each.

24 (2) Any beneficiary to whom any qualified wages have been
25 apportioned under paragraph (1) shall be treated (for purposes of
26 this part) as the employer with respect to those wages.

27 (g) The credit shall be reduced by the credit allowed under
28 Section 17053.7. The credit shall also be reduced by the federal
29 credit allowed under Section 51 of the Internal Revenue Code.

30 In addition, any deduction otherwise allowed under this part for
31 the wages or salaries paid or incurred by the taxpayer upon which
32 the credit is based shall be reduced by the amount of the credit,
33 prior to any reduction required by subdivision (h) or (i).

34 (h) In the case where the credit otherwise allowed under this
35 section exceeds the "net tax" for the taxable year, that portion of
36 the credit that exceeds the "net tax" may be carried over and added
37 to the credit, if any, in *the following year, and the succeeding 14*
38 *years if necessary*, until the credit is exhausted. The credit shall
39 be applied first to the earliest taxable years possible.

1 (i) (1) The amount of credit otherwise allowed under this section
2 and Section 17053.45, including prior year credit carryovers, that
3 may reduce the “net tax” for the taxable year shall not exceed the
4 amount of tax that would be imposed on the taxpayer’s business
5 income attributed to a LAMBRA determined as if that attributed
6 income represented all of the net income of the taxpayer subject
7 to tax under this part.

8 (2) Attributable income shall be that portion of the taxpayer’s
9 California source business income that is apportioned to the
10 LAMBRA. For that purpose, the taxpayer’s business income that
11 is attributable to sources in this state first shall be determined in
12 accordance with Chapter 17 (commencing with Section 25101) of
13 Part 11. That business income shall be further apportioned to the
14 LAMBRA in accordance with Article 2 (commencing with Section
15 25120) of Chapter 17 of Part 11, modified for purposes of this
16 section in accordance with paragraph (3).

17 (3) Income shall be apportioned to a LAMBRA by multiplying
18 the total California business income of the taxpayer by a fraction,
19 the numerator of which is the property factor plus the payroll factor,
20 and the denominator of which is two. For purposes of this
21 paragraph:

22 (A) The property factor is a fraction, the numerator of which is
23 the average value of the taxpayer’s real and tangible personal
24 property owned or rented and used in the LAMBRA during the
25 taxable year, and the denominator of which is the average value
26 of all the taxpayer’s real and tangible personal property owned or
27 rented and used in this state during the taxable year.

28 (B) The payroll factor is a fraction, the numerator of which is
29 the total amount paid by the taxpayer in the LAMBRA during the
30 taxable year for compensation, and the denominator of which is
31 the total compensation paid by the taxpayer in this state during the
32 taxable year.

33 (4) The portion of any credit remaining, if any, after application
34 of this subdivision, shall be carried over to succeeding taxable
35 years, as if it were an amount exceeding the “net tax” for the
36 taxable year, as provided in subdivision (h).

37 (j) If the taxpayer is allowed a credit pursuant to this section for
38 qualified wages paid or incurred, only one credit shall be allowed
39 to the taxpayer under this part with respect to any wage consisting
40 in whole or in part of those qualified wages.

1 (k) A credit shall not be allowed under this section to a taxpayer
2 that has been notified by the Director of Industrial Relations of a
3 final determination, based on the taxpayer's history of significant
4 employment violations, that the taxpayer is considered by the
5 Department of Industrial Relations as a serious, repeated, and
6 willful violator of state employment laws, including, but not limited
7 to, demonstrating a failure to successfully abate these violations.

8 (l) A taxpayer shall be required to register a business pursuant
9 to the Local Agency Military Base Recovery Area Act (Chapter
10 12.97 (commencing with Section 7105) of Division 7 of Title 1 of
11 the Government Code), and shall state under penalty of perjury
12 that the taxpayer is a registered business in one or more LAMBRAs,
13 as a condition of claiming a credit under this section.

14 (m) The changes made to this section by the act adding this
15 subdivision shall apply only to qualified disadvantaged individuals
16 hired by a qualified taxpayer on or after January 1, 2011.

17 SEC. 23. Section 17053.47 of the Revenue and Taxation Code
18 is amended to read:

19 17053.47. (a) For each taxable year beginning on or after
20 January 1, 1998, there shall be allowed a credit against the "net
21 tax" (as defined in Section 17039) to a qualified taxpayer for hiring
22 a qualified disadvantaged individual during the taxable year for
23 employment in the manufacturing enhancement area. The credit
24 shall be equal to the sum of each of the following:

25 (1) Fifty percent of the qualified wages in the first year of
26 employment.

27 (2) Forty percent of the qualified wages in the second year of
28 employment.

29 (3) Thirty percent of the qualified wages in the third year of
30 employment.

31 (4) Twenty percent of the qualified wages in the fourth year of
32 employment.

33 (5) Ten percent of the qualified wages in the fifth year of
34 employment.

35 (b) For purposes of this section:

36 (1) "Qualified wages" means:

37 (A) That portion of wages paid or incurred by the qualified
38 taxpayer during the taxable year to qualified disadvantaged
39 individuals that does not exceed 150 percent of the minimum wage.

1 (B) The total amount of qualified wages which may be taken
2 into account for purposes of claiming the credit allowed under this
3 section shall not exceed two million dollars (\$2,000,000) per
4 taxable year.

5 (C) Wages received during the 60-month period beginning with
6 the first day the qualified disadvantaged individual commences
7 employment with the qualified taxpayer. Reemployment in
8 connection with any increase, including a regularly occurring
9 seasonal increase, in the trade or business operations of the taxpayer
10 does not constitute commencement of employment for purposes
11 of this section.

12 (D) Qualified wages do not include any wages paid or incurred
13 by the qualified taxpayer on or after the manufacturing
14 enhancement area expiration date. However, wages paid or incurred
15 with respect to qualified employees who are employed by the
16 qualified taxpayer within the manufacturing enhancement area
17 within the 60-month period prior to the manufacturing enhancement
18 area expiration date shall continue to qualify for the credit under
19 this section after the manufacturing enhancement area expiration
20 date, in accordance with all provisions of this section applied as
21 if the manufacturing enhancement area designation were still in
22 existence and binding.

23 (2) "Minimum wage" means the wage established by the
24 Industrial Welfare Commission as provided for in Chapter 1
25 (commencing with Section 1171) of Part 4 of Division 2 of the
26 Labor Code.

27 (3) "Manufacturing enhancement area" means an area designated
28 pursuant to Section 7073.8 of the Government Code according to
29 the procedures of Chapter 12.8 (commencing with Section 7070)
30 of Division 7 of Title 1 of the Government Code.

31 (4) "Manufacturing enhancement area expiration date" means
32 the date the manufacturing enhancement area designation expires,
33 is no longer binding, or becomes inoperative.

34 (5) "Qualified disadvantaged individual" means an individual
35 who *was hired by a qualified taxpayer before January 1, 2011,*
36 *and who* satisfies all of the following requirements:

37 (A) (i) At least 90 percent of whose services for the qualified
38 taxpayer during the taxable year are directly related to the conduct
39 of the qualified taxpayer's trade or business located in a
40 manufacturing enhancement area.

1 (ii) Who performs at least 50 percent of his or her services for
2 the qualified taxpayer during the taxable year in the manufacturing
3 enhancement area.

4 (B) Who is hired by the qualified taxpayer after the designation
5 of the area as a manufacturing enhancement area in which the
6 individual's services were primarily performed.

7 ~~(C) Who is any of the following, immediately preceding the~~
8 ~~individual's commencement of employment with the qualified~~
9 ~~taxpayer, was certified as eligible by the Employment Development~~
10 ~~Department under the federal Targeted Jobs Tax Credit Program,~~
11 ~~or its successor, whether or not this program is in effect.~~

12 ~~(i) An individual who has been determined eligible for services~~
13 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
14 ~~1501 et seq.), or its successor.~~

15 ~~(ii) Any voluntary or mandatory registrant under the Greater~~
16 ~~Avenues for Independence Act of 1985, or its successor, as~~
17 ~~provided pursuant to Article 3.2 (commencing with Section 11320)~~
18 ~~of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~
19 ~~Code.~~

20 ~~(iii) Any individual who has been certified eligible by the~~
21 ~~Employment Development Department under the federal Targeted~~
22 ~~Jobs Tax Credit Program, or its successor, whether or not this~~
23 ~~program is in effect.~~

24 (6) "Qualified taxpayer" means any taxpayer engaged in a trade
25 or business within a manufacturing enhancement area designated
26 pursuant to Section 7073.8 of the Government Code and who meets
27 all of the following requirements:

28 (A) Is engaged in those lines of business described in Codes
29 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
30 inclusive, of the Standard Industrial Classification (SIC) Manual
31 published by the United States Office of Management and Budget,
32 1987 edition.

33 (B) At least 50 percent of the qualified taxpayer's workforce
34 hired after the designation of the manufacturing enhancement area
35 is composed of individuals who, at the time of hire, are residents
36 of the county in which the manufacturing enhancement area is
37 located.

38 (C) Of this percentage of local hires, at least 30 percent shall
39 be qualified disadvantaged individuals.

1 (7) “Seasonal employment” means employment by a qualified
2 taxpayer that has regular and predictable substantial reductions in
3 trade or business operations.

4 (c) (1) For purposes of this section, all of the following apply:

5 (A) All employees of trades or businesses that are under
6 common control shall be treated as employed by a single qualified
7 taxpayer.

8 (B) The credit (if any) allowable by this section with respect to
9 each trade or business shall be determined by reference to its
10 proportionate share of the expense of the qualified wages giving
11 rise to the credit and shall be allocated in that manner.

12 (C) Principles that apply in the case of controlled groups of
13 corporations, as specified in subdivision (d) of Section 23622.7,
14 shall apply with respect to determining employment.

15 (2) If a qualified taxpayer acquires the major portion of a trade
16 or business of another employer (hereinafter in this paragraph
17 referred to as the “predecessor”) or the major portion of a separate
18 unit of a trade or business of a predecessor, then, for purposes of
19 applying this section (other than subdivision (d)) for any calendar
20 year ending after that acquisition, the employment relationship
21 between a qualified disadvantaged individual and a qualified
22 taxpayer shall not be treated as terminated if the qualified
23 disadvantaged individual continues to be employed in that trade
24 or business.

25 (d) (1) (A) If the employment, other than seasonal employment,
26 of any qualified disadvantaged individual, with respect to whom
27 qualified wages are taken into account under subdivision (b) is
28 terminated by the qualified taxpayer at any time during the first
29 270 days of that employment (whether or not consecutive) or before
30 the close of the 270th calendar day after the day in which that
31 qualified disadvantaged individual completes 90 days of
32 employment with the qualified taxpayer, the tax imposed by this
33 part for the taxable year in which that employment is terminated
34 shall be increased by an amount equal to the credit allowed under
35 subdivision (a) for that taxable year and all prior taxable years
36 attributable to qualified wages paid or incurred with respect to that
37 qualified disadvantaged individual.

38 (B) If the seasonal employment of any qualified disadvantaged
39 individual, with respect to whom qualified wages are taken into
40 account under subdivision (a) is not continued by the qualified

1 taxpayer for a period of 270 days of employment during the
2 60-month period beginning with the day the qualified
3 disadvantaged individual commences seasonal employment with
4 the qualified taxpayer, the tax imposed by this part, for the taxable
5 year that includes the 60th month following the month in which
6 the qualified disadvantaged individual commences seasonal
7 employment with the qualified taxpayer, shall be increased by an
8 amount equal to the credit allowed under subdivision (a) for that
9 taxable year and all prior taxable years attributable to qualified
10 wages paid or incurred with respect to that qualified disadvantaged
11 individual.

12 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
13 any of the following:

14 (i) A termination of employment of a qualified disadvantaged
15 individual who voluntarily leaves the employment of the qualified
16 taxpayer.

17 (ii) A termination of employment of a qualified disadvantaged
18 individual who, before the close of the period referred to in
19 subparagraph (A) of paragraph (1), becomes disabled to perform
20 the services of that employment, unless that disability is removed
21 before the close of that period and the taxpayer fails to offer
22 reemployment to that individual.

23 (iii) A termination of employment of a qualified disadvantaged
24 individual, if it is determined that the termination was due to the
25 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
26 of Title 22 of the California Code of Regulations) of that individual.

27 (iv) A termination of employment of a qualified disadvantaged
28 individual due to a substantial reduction in the trade or business
29 operations of the qualified taxpayer.

30 (v) A termination of employment of a qualified disadvantaged
31 individual, if that individual is replaced by other qualified
32 disadvantaged individuals so as to create a net increase in both the
33 number of employees and the hours of employment.

34 (B) Subparagraph (B) of paragraph (1) shall not apply to any
35 of the following:

36 (i) A failure to continue the seasonal employment of a qualified
37 disadvantaged individual who voluntarily fails to return to the
38 seasonal employment of the qualified taxpayer.

39 (ii) A failure to continue the seasonal employment of a qualified
40 disadvantaged individual who, before the close of the period

1 referred to in subparagraph (B) of paragraph (1), becomes disabled
2 and unable to perform the services of that seasonal employment,
3 unless that disability is removed before the close of that period
4 and the qualified taxpayer fails to offer seasonal employment to
5 that qualified disadvantaged individual.

6 (iii) A failure to continue the seasonal employment of a qualified
7 disadvantaged individual, if it is determined that the failure to
8 continue the seasonal employment was due to the misconduct (as
9 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
10 the California Code of Regulations) of that qualified disadvantaged
11 individual.

12 (iv) A failure to continue seasonal employment of a qualified
13 disadvantaged individual due to a substantial reduction in the
14 regular seasonal trade or business operations of the qualified
15 taxpayer.

16 (v) A failure to continue the seasonal employment of a qualified
17 disadvantaged individual, if that qualified disadvantaged individual
18 is replaced by other qualified disadvantaged individuals so as to
19 create a net increase in both the number of seasonal employees
20 and the hours of seasonal employment.

21 (C) For purposes of paragraph (1), the employment relationship
22 between the qualified taxpayer and a qualified disadvantaged
23 individual shall not be treated as terminated by reason of a mere
24 change in the form of conducting the trade or business of the
25 qualified taxpayer, if the qualified disadvantaged individual
26 continues to be employed in that trade or business and the qualified
27 taxpayer retains a substantial interest in that trade or business.

28 (3) Any increase in tax under paragraph (1) shall not be treated
29 as tax imposed by this part for purposes of determining the amount
30 of any credit allowable under this part.

31 (e) In the case of an estate or trust, both of the following apply:

32 (1) The qualified wages for any taxable year shall be apportioned
33 between the estate or trust and the beneficiaries on the basis of the
34 income of the estate or trust allocable to each.

35 (2) Any beneficiary to whom any qualified wages have been
36 apportioned under paragraph (1) shall be treated (for purposes of
37 this part) as the employer with respect to those wages.

38 (f) The credit shall be reduced by the credit allowed under
39 Section 17053.7. The credit shall also be reduced by the federal
40 credit allowed under Section 51 of the Internal Revenue Code.

1 In addition, any deduction otherwise allowed under this part for
2 the wages or salaries paid or incurred by the qualified taxpayer
3 upon which the credit is based shall be reduced by the amount of
4 the credit, prior to any reduction required by subdivision (g) or
5 (h).

6 (g) In the case where the credit otherwise allowed under this
7 section exceeds the “net tax” for the taxable year, that portion of
8 the credit that exceeds the “net tax” may be carried over and added
9 to the credit, if any, in succeeding years, until the credit is
10 exhausted. The credit shall be applied first to the earliest taxable
11 years possible.

12 (h) (1) The amount of credit otherwise allowed under this
13 section, including prior year credit carryovers, that may reduce
14 the “net tax” for the taxable year shall not exceed the amount of
15 tax that would be imposed on the qualified taxpayer’s business
16 income attributed to a manufacturing enhancement area determined
17 as if that attributed income represented all of the net income of the
18 qualified taxpayer subject to tax under this part.

19 (2) Attributable income shall be that portion of the taxpayer’s
20 California source business income that is apportioned to the
21 manufacturing enhancement area. For that purpose, the taxpayer’s
22 business income that is attributable to sources in this state first
23 shall be determined in accordance with Chapter 17 (commencing
24 with Section 25101) of Part 11. That business income shall be
25 further apportioned to the manufacturing enhancement area in
26 accordance with Article 2 (commencing with Section 25120) of
27 Chapter 17 of Part 11, modified for purposes of this section in
28 accordance with paragraph (3).

29 (3) Income shall be apportioned to a manufacturing enhancement
30 area by multiplying the total California business income of the
31 taxpayer by a fraction, the numerator of which is the property
32 factor plus the payroll factor, and the denominator of which is two.
33 For purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the manufacturing
37 enhancement area during the taxable year, and the denominator
38 of which is the average value of all the taxpayer’s real and tangible
39 personal property owned or rented and used in this state during
40 the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the manufacturing
3 enhancement area during the taxable year for compensation, and
4 the denominator of which is the total compensation paid by the
5 taxpayer in this state during the taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, as if it were an amount exceeding the “net tax” for the
9 taxable year, as provided in subdivision (g).

10 (i) If the taxpayer is allowed a credit pursuant to this section for
11 qualified wages paid or incurred, only one credit shall be allowed
12 to the taxpayer under this part with respect to any wage consisting
13 in whole or in part of those qualified wages.

14 (j) The qualified taxpayer shall do both of the following:

15 (1) Obtain from the Employment Development Department, as
16 permitted by federal law, the local county or city ~~Job Training~~
17 ~~Partnership Act administrative entity, the local county GAIN office~~
18 *federal Workforce Investment Act of 1998 administrative entity,*
19 *local county CalWORKs program office* or social services agency,
20 or the local government administering the manufacturing
21 enhancement area, a certification that provides that a qualified
22 disadvantaged individual meets the eligibility requirements
23 specified in paragraph (5) of subdivision (b). The Employment
24 Development Department may provide preliminary screening and
25 referral to a certifying agency. The Department of Housing and
26 Community Development shall develop regulations governing the
27 issuance of certificates pursuant to subdivision (d) of Section 7086
28 of the Government Code and shall develop forms for this purpose.

29 (2) Retain a copy of the certification and provide it upon request
30 to the Franchise Tax Board.

31 (k) *This section shall remain in effect only until January 1, 2017,*
32 *and as of that date is repealed.*

33 *SEC. 24. Section 17053.70 of the Revenue and Taxation Code*
34 *is amended to read:*

35 17053.70. (a) There shall be allowed as a credit against the
36 “net tax” (as defined in Section 17039) for the taxable year an
37 amount equal to the sales or use tax paid or incurred during the
38 taxable year by the taxpayer in connection with the taxpayer’s
39 purchase of qualified property.

40 (b) For purposes of this section:

- 1 (1) "Taxpayer" means a person or entity engaged in a trade or
2 business within an enterprise zone.
- 3 (2) "Qualified property" means:
- 4 (A) Any of the following:
- 5 (i) Machinery and machinery parts used for fabricating,
6 processing, assembling, and manufacturing.
- 7 (ii) Machinery and machinery parts used for the production of
8 renewable energy resources.
- 9 (iii) Machinery and machinery parts used for either of the
10 following:
- 11 (I) Air pollution control mechanisms.
- 12 (II) Water pollution control mechanisms.
- 13 (iv) Data processing and communications equipment, including,
14 but not limited, to computers, computer-automated drafting
15 systems, copy machines, telephone systems, and faxes.
- 16 (v) Motion picture manufacturing equipment central to
17 production and postproduction, including, but not limited to,
18 cameras, audio recorders, and digital image and sound processing
19 equipment.
- 20 (B) The total cost of qualified property purchased and placed
21 in service in any taxable year that may be taken into account by
22 any taxpayer for purposes of claiming this credit shall not exceed
23 one million dollars (\$1,000,000).
- 24 (C) The qualified property is used by the taxpayer exclusively
25 in an enterprise zone.
- 26 (D) The qualified property is purchased and placed in service
27 before the date the enterprise zone designation expires, is no longer
28 binding, or becomes inoperative.
- 29 (3) "Enterprise zone" means the area designated as an enterprise
30 zone pursuant to Chapter 12.8 (commencing with Section 7070)
31 of Division 7 of Title 1 of the Government Code.
- 32 (c) If the taxpayer has purchased property upon which a use tax
33 has been paid or incurred, the credit provided by this section shall
34 be allowed only if qualified property of a comparable quality and
35 price is not timely available for purchase in this state.
- 36 (d) In the case where the credit otherwise allowed under this
37 section exceeds the "net tax" for the taxable year, that portion of
38 the credit that exceeds the "net tax" may be carried over and added
39 to the credit, if any, in *the following year, and the succeeding 14*

1 taxable years *if necessary*, until the credit is exhausted. The credit
2 shall be applied first to the earliest taxable years possible.

3 (e) Any taxpayer who elects to be subject to this section shall
4 not be entitled to increase the basis of the qualified property as
5 otherwise required by Section 164(a) of the Internal Revenue Code
6 with respect to sales or use tax paid or incurred in connection with
7 the taxpayer's purchase of qualified property.

8 (f) (1) The amount of the credit otherwise allowed under this
9 section and Section 17053.74, including any credit carryover from
10 prior years, that may reduce the "net tax" for the taxable year shall
11 not exceed the amount of tax that would be imposed on the
12 taxpayer's business income attributable to the enterprise zone
13 determined as if that attributable income represented all of the
14 income of the taxpayer subject to tax under this part.

15 (2) Attributable income shall be that portion of the taxpayer's
16 California source business income that is apportioned to the
17 enterprise zone. For that purpose, the taxpayer's business income
18 attributable to sources in this state first shall be determined in
19 accordance with Chapter 17 (commencing with Section 25101) of
20 Part 11. That business income shall be further apportioned to the
21 enterprise zone in accordance with Article 2 (commencing with
22 Section 25120) of Chapter 17 of Part 11, modified for purposes
23 of this section in accordance with paragraph (3).

24 (3) Business income shall be apportioned to the enterprise zone
25 by multiplying the total California business income of the taxpayer
26 by a fraction, the numerator of which is the property factor plus
27 the payroll factor, and the denominator of which is two. For
28 purposes of this paragraph:

29 (A) The property factor is a fraction, the numerator of which is
30 the average value of the taxpayer's real and tangible personal
31 property owned or rented and used in the enterprise zone during
32 the taxable year, and the denominator of which is the average value
33 of all the taxpayer's real and tangible personal property owned or
34 rented and used in this state during the taxable year.

35 (B) The payroll factor is a fraction, the numerator of which is
36 the total amount paid by the taxpayer in the enterprise zone during
37 the taxable year for compensation, and the denominator of which
38 is the total compensation paid by the taxpayer in this state during
39 the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (d).

(g) *A taxpayer shall be required to register a business pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more enterprise zones, as a condition of claiming a credit under this section.*

~~(g)~~
(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(i) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.*

SEC. 25. *Section 17053.73 is added to the Revenue and Taxation Code, to read:*

17053.73. (a) *There shall be allowed a credit against the “net tax” (as defined in Section 17039) to a taxpayer that employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:*

(1) *Thirty percent of qualified wages in the first year of employment.*

(2) *Forty percent of qualified wages in the second year of employment.*

(3) *Fifty percent of qualified wages in the third year of employment.*

(b) *For purposes of this section:*

(1) *“Enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.*

(2) *“Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.*

(3) (A) *“Qualified employee” means an individual who was hired by a taxpayer on or after January 1, 2011, and who meets all of the following requirements:*

1 (i) At least 90 percent of whose services for the taxpayer during
2 the taxable year are directly related to the conduct of the
3 taxpayer's trade or business located in an enterprise zone.

4 (ii) Performs at least 50 percent of his or her services for the
5 taxpayer during the taxable year in an enterprise zone.

6 (iii) Is hired by the taxpayer after the date of original
7 designation of the area in which services were performed as an
8 enterprise zone.

9 (iv) Is any of the following:

10 (I) Immediately preceding the qualified employee's
11 commencement of employment with the taxpayer, was an
12 economically disadvantaged individual 14 years of age or older.

13 (II) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a dislocated
15 worker who meets any of the following:

16 (ia) Has been terminated or laid off or who has received a notice
17 of termination or layoff from employment, is eligible for or has
18 exhausted entitlement to unemployment insurance benefits, and is
19 unlikely to return to his or her previous industry or occupation.

20 (ib) Has been terminated or has received a notice of termination
21 of employment as a result of any permanent closure or any
22 substantial layoff at a plant, facility, or enterprise, including an
23 individual who has not received written notification but whose
24 employer has made a public announcement of the closure or layoff.

25 (ic) Is long-term unemployed and has limited opportunities for
26 employment or reemployment in the same or a similar occupation
27 in the area in which the individual resides, including an individual
28 55 years of age or older who may have substantial barriers to
29 employment by reason of age.

30 (id) Was self-employed (including farmers and ranchers) and
31 is unemployed as a result of general economic conditions in the
32 community in which he or she resides or because of natural
33 disasters.

34 (ie) Was a civilian employee of the Department of Defense
35 employed at a military installation being closed or realigned under
36 the Defense Base Closure and Realignment Act of 1990.

37 (if) Was an active member of the armed forces or National
38 Guard as of September 30, 1990, and was either involuntarily
39 separated or separated pursuant to a special benefits program.

1 ~~(ig) Is a seasonal or migrant worker who experiences chronic~~
2 ~~seasonal unemployment and underemployment in the agriculture~~
3 ~~industry, aggravated by continual advancements in technology~~
4 ~~and mechanization.~~

5 ~~(ih) Has been terminated or laid off, or has received a notice~~
6 ~~of termination or layoff, as a consequence of compliance with the~~
7 ~~federal Clean Air Act.~~

8 ~~(III) Immediately preceding the qualified employee's~~
9 ~~commencement of employment with the taxpayer, was a disabled~~
10 ~~individual who is eligible for or enrolled in, or has completed a~~
11 ~~state rehabilitation plan.~~

12 ~~(IV) Immediately preceding the qualified employee's~~
13 ~~commencement of employment with the taxpayer, was a~~
14 ~~service-connected disabled veteran, veteran of the Vietnam era,~~
15 ~~or veteran who is recently separated from military service.~~

16 ~~(V) Immediately preceding the qualified employee's~~
17 ~~commencement of employment with the taxpayer, was an~~
18 ~~ex-offender. An individual shall be treated as convicted if he or~~
19 ~~she was placed on probation by a state court without a finding of~~
20 ~~guilt.~~

21 ~~(VI) Immediately preceding the qualified employee's~~
22 ~~commencement of employment with the taxpayer, was a person~~
23 ~~eligible for or a recipient of any of the following:~~

24 ~~(ia) Federal Supplemental Security Income benefits.~~

25 ~~(ib) Temporary Assistance for Needy Families.~~

26 ~~(ic) Medi-Cal or Healthy Families.~~

27 ~~(id) Food stamps.~~

28 ~~(ie) State and local general assistance.~~

29 ~~(if) Intensive services including employment training services~~
30 ~~funded through the federal Workforce Investment Act (Public Law~~
31 ~~105-220).~~

32 ~~(ig) Voluntary or mandatory services under the California Work~~
33 ~~Opportunity and Responsibility to Kids (CalWORKs) program~~
34 ~~(Chapter 2 (commencing with Section 11200) of Part 3 of Division~~
35 ~~9 of the Welfare and Institutions Code).~~

36 ~~(ih) Federal Work Opportunity Tax Credit (Section 51 of the~~
37 ~~Internal Revenue Code).~~

38 ~~(VII) Immediately preceding the qualified employee's~~
39 ~~commencement of employment with the taxpayer, was a member~~

1 of a federally recognized Indian tribe, band, or other group of
2 Native American descent.

3 (VIII) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a resident
5 of a targeted employment area, as defined in Section 7072 of the
6 Government Code, and the employee is receiving a wage that does
7 not exceed the median income for a family of four within the census
8 block groups of the enterprise zone, as defined by the United States
9 Census Bureau.

10 (IX) An employee who qualified the taxpayer for the enterprise
11 zone hiring credit under former Section 17053.8 or the program
12 area hiring credit under former Section 17053.11.

13 (B) Priority for employment shall be provided to an individual
14 who is enrolled in a qualified program under the federal Workforce
15 Investment Act or the CalWORKs program or who is eligible as
16 a member of a targeted group under the Work Opportunity Tax
17 Credit (Section 51 of the Internal Revenue Code), or its successor.

18 (4) "Qualified wages" means:

19 (A) (i) Except as provided in clause (ii), that portion of wages
20 paid or incurred by the taxpayer during the taxable year to
21 qualified employees that does not exceed 180 percent of the
22 minimum wage.

23 (ii) Qualified employees who are employed by a taxpayer in
24 manufacturing activities described in Codes 311 to 339, inclusive,
25 of the North American Industry Classification System published
26 by the United States Office of Management and Budget, 2007
27 edition, "qualified wages" means that portion of hourly wages
28 that does not exceed 202 percent of the minimum wage.

29 (B) Wages received during the 36-month period beginning with
30 the first day the employee commences employment with the
31 taxpayer. Reemployment in connection with any increase, including
32 a regularly occurring seasonal increase, in the trade or business
33 operations of the taxpayer does not constitute commencement of
34 employment for purposes of this section.

35 (C) Qualified wages shall not include any wages paid or
36 incurred by the taxpayer on or after the zone expiration date.
37 However, wages paid or incurred with respect to qualified
38 employees who are employed by the taxpayer within the enterprise
39 zone within the 36-month period prior to the zone expiration date
40 shall continue to qualify for the credit under this section after the

1 zone expiration date, in accordance with all provisions of this
2 section applied as if the enterprise zone designation were still in
3 existence and binding.

4 (5) “Seasonal employment” means employment by a taxpayer
5 that has regular and predictable substantial reductions in trade
6 or business operations.

7 (6) “Taxpayer” means a person or entity engaged in a trade or
8 business within an enterprise zone designated pursuant to Chapter
9 12.8 (commencing with Section 7070) of the Government Code.

10 (7) “Zone expiration date” means the date the enterprise zone
11 designation expires, is no longer binding, or becomes inoperative.

12 (c) The taxpayer shall do both of the following:

13 (1) Apply for certification, within 36 months of an employee
14 being hired, from the Employment Development Department, as
15 permitted by federal law, the local county or city federal Workforce
16 Investment Act administrative entity, the local county CalWORKs
17 program office or social services agency, or the local government
18 administering the enterprise zone, a certification which provides
19 that a qualified employee meets the eligibility requirements
20 specified in clause (iv) of subparagraph (A) of paragraph (4) of
21 subdivision (b). The Employment Development Department may
22 provide preliminary screening and referral to businesses located
23 in an enterprise zone as of the department’s implementation of the
24 intensive services activities funded through the federal Workforce
25 Investment Act. The Department of Housing and Community
26 Development shall develop regulations governing the issuance of
27 certificates by local governments pursuant to subdivision (a) of
28 Section 7086 of the Government Code.

29 (2) Retain a copy of the certification and provide it upon request
30 to the Franchise Tax Board.

31 (d) (1) For purposes of this section:

32 (A) All employees of trades or businesses, which are not
33 incorporated, that are under common control shall be treated as
34 employed by a single taxpayer.

35 (B) The credit, if any, allowable by this section with respect to
36 each trade or business shall be determined by reference to its
37 proportionate share of the expense of the qualified wages giving
38 rise to the credit, and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23622.7,
3 shall apply with respect to determining employment.

4 (2) (A) If an employer acquires the major portion of a trade or
5 business of another employer (hereinafter in this paragraph
6 referred to as the "predecessor") or the major portion of a
7 separate unit of a trade or business of a predecessor, then, for
8 purposes of applying this section (other than subdivision (e)) for
9 any calendar year ending after that acquisition, the employment
10 relationship between a qualified employee and an employer shall
11 not be treated as terminated if the employee continues to be
12 employed in that trade or business.

13 (B) If a taxpayer relocated to an enterprise zone from within
14 the state, the taxpayer shall be allowed a credit only for that
15 number of employees that exceeds the number of employees at the
16 previous location. The number of employees at the previous
17 location and the type of jobs undertaken shall be established by
18 the Employment Development Department. Exceptions to this
19 subparagraph shall be limited to the following:

20 (i) Employees who undertake core work activities or activities
21 that are the primary job duties of the employee that are
22 significantly different from those activities at the previous location,
23 as determined by the Employment Development Department.

24 (ii) Employees of taxpayers that receive a bona fide offer to
25 relocate to another state.

26 (iii) Employees who relocate as a result of a natural disaster,
27 civic unrest, or eminent domain proceeding.

28 (e) (1) (A) If the employment, other than seasonal employment,
29 of any qualified employee, with respect to whom qualified wages
30 are taken into account under subdivision (a), is terminated by the
31 taxpayer at any time during the first 300 days of that employment
32 (whether or not consecutive) or before the close of the 300th
33 calendar day after the day in which that employee completes 90
34 days of employment with the taxpayer, the tax imposed by this part
35 for the taxable year in which that employment is terminated shall
36 be increased by an amount equal to the credit allowed under
37 subdivision (a) for that taxable year and all prior taxable years
38 attributable to qualified wages paid or incurred with respect to
39 that employee.

1 (B) If the seasonal employment of any qualified employee, with
2 respect to whom qualified wages are taken into account under
3 subdivision (a) is not continued by the taxpayer for a period of
4 300 days of employment during the 36-month period beginning
5 with the day the qualified employee commences seasonal
6 employment with the taxpayer, the tax imposed by this part, for
7 the taxable year that includes the 36th month following the month
8 in which the qualified employee commences seasonal employment
9 with the taxpayer, shall be increased by an amount equal to the
10 credit allowed under subdivision (a) for that taxable year and all
11 prior taxable years attributable to qualified wages paid or incurred
12 with respect to that qualified employee.

13 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
14 any of the following:

15 (i) A termination of employment of a qualified employee who
16 voluntarily leaves the employment of the taxpayer.

17 (ii) A termination of employment of a qualified employee who,
18 before the close of the period referred to in paragraph (1), becomes
19 disabled and unable to perform the services of that employment,
20 unless that disability is removed before the close of that period
21 and the taxpayer fails to offer reemployment to that employee.

22 (iii) A termination of employment of a qualified employee, if it
23 is determined that the termination was due to the misconduct (as
24 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
25 the California Code of Regulations) of that employee.

26 (iv) A termination of employment of a qualified employee due
27 to a substantial reduction in the trade or business operations of
28 the taxpayer.

29 (v) A termination of employment of a qualified employee, if that
30 employee is replaced by other qualified employees so as to create
31 a net increase in both the number of employees and the hours of
32 employment.

33 (B) Subparagraph (B) of paragraph (1) shall not apply to any
34 of the following:

35 (i) A failure to continue the seasonal employment of a qualified
36 employee who voluntarily fails to return to the seasonal
37 employment of the taxpayer.

38 (ii) A failure to continue the seasonal employment of a qualified
39 employee who, before the close of the period referred to in
40 subparagraph (B) of paragraph (1), becomes disabled and unable

1 to perform the services of that seasonal employment, unless that
2 disability is removed before the close of that period and the
3 taxpayer fails to offer seasonal employment to that qualified
4 employee.

5 (iii) A failure to continue the seasonal employment of a qualified
6 employee, if it is determined that the failure to continue the
7 seasonal employment was due to the misconduct (as defined in
8 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
9 Code of Regulations) of that qualified employee.

10 (iv) A failure to continue seasonal employment of a qualified
11 employee due to a substantial reduction in the regular seasonal
12 trade or business operations of the taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified
14 employee, if that qualified employee is replaced by other qualified
15 employees so as to create a net increase in both the number of
16 seasonal employees and the hours of seasonal employment.

17 (C) For purposes of paragraph (1), the employment relationship
18 between the taxpayer and a qualified employee shall not be treated
19 as terminated by reason of a mere change in the form of conducting
20 the trade or business of the taxpayer, if the qualified employee
21 continues to be employed in that trade or business and the taxpayer
22 retains a substantial interest in that trade or business.

23 (3) Any increase in tax under paragraph (1) shall not be treated
24 as tax imposed by this part for purposes of determining the amount
25 of any credit allowable under this part.

26 (f) In the case of an estate or trust, both of the following apply:

27 (1) The qualified wages for any taxable year shall be
28 apportioned between the estate or trust and the beneficiaries on
29 the basis of the income of the estate or trust allocable to each.

30 (2) Any beneficiary to whom any qualified wages have been
31 apportioned under paragraph (1) shall be treated, for purposes
32 of this part, as the employer with respect to those wages.

33 (g) The credit allowable under this section shall be reduced by
34 the credit allowed under Sections 17053.10, 17053.17, and
35 17053.46 claimed for the same employee. The credit shall also be
36 reduced by the federal credit allowed under Section 51 of the
37 Internal Revenue Code.

38 In addition, any deduction otherwise allowed under this part for
39 the wages or salaries paid or incurred by the taxpayer upon which

1 the credit is based shall be reduced by the amount of the credit,
2 prior to any reduction required by subdivision (h) or (i).

3 (h) In the case where the credit otherwise allowed under this
4 section exceeds the “net tax” for the taxable year, that portion of
5 the credit that exceeds the “net tax” may be carried over and
6 added to the credit, if any, in the following year, and the succeeding
7 14 years if necessary, until the credit is exhausted. The credit shall
8 be applied first to the earliest taxable years possible.

9 (i) (1) The amount of the credit otherwise allowed under this
10 section and Section 17053.70, including any credit carryover from
11 prior years, that may reduce the “net tax” for the taxable year
12 shall not exceed the amount of tax which would be imposed on the
13 taxpayer’s business income attributable to the enterprise zone
14 determined as if that attributable income represented all of the
15 income of the taxpayer subject to tax under this part.

16 (2) Attributable income shall be that portion of the taxpayer’s
17 California source business income that is apportioned to the
18 enterprise zone. For that purpose, the taxpayer’s business income
19 attributable to sources in this state first shall be determined in
20 accordance with Chapter 17 (commencing with Section 25101) of
21 Part 11. That business income shall be further apportioned to the
22 enterprise zone in accordance with Article 2 (commencing with
23 Section 25120) of Chapter 17 of Part 11, modified for purposes
24 of this section in accordance with paragraph (3).

25 (3) Business income shall be apportioned to the enterprise zone
26 by multiplying the total California business income of the taxpayer
27 by a fraction, the numerator of which is the property factor plus
28 the payroll factor, and the denominator of which is two. For
29 purposes of this paragraph:

30 (A) The property factor is a fraction, the numerator of which is
31 the average value of the taxpayer’s real and tangible personal
32 property owned or rented and used in the enterprise zone during
33 the taxable year, and the denominator of which is the average
34 value of all the taxpayer’s real and tangible personal property
35 owned or rented and used in this state during the taxable year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the enterprise zone during
38 the taxable year for compensation, and the denominator of which
39 is the total compensation paid by the taxpayer in this state during
40 the taxable year.

1 (4) *The portion of any credit remaining, if any, after application*
2 *of this subdivision, shall be carried over to succeeding taxable*
3 *years, as if it were an amount exceeding the “net tax” for the*
4 *taxable year, as provided in subdivision (i).*

5 (j) *A credit shall not be allowed under this section for a taxpayer*
6 *that has been notified by the Director of Industrial Relations of a*
7 *final determination, based on the taxpayer’s history of significant*
8 *employment violations, that the taxpayer is considered by the*
9 *Department of Industrial Relations as a serious, repeated, and*
10 *willful violator of state employment laws, including, but not limited*
11 *to, demonstrating a failure to successfully abate these violations.*

12 (k) *A taxpayer shall be required to register a business pursuant*
13 *to the Enterprise Zone Act (Chapter 12.8 (commencing with Section*
14 *7070) of Division 7 of Title 1 of the Government Code), and shall*
15 *state under penalty of perjury that the taxpayer is a registered*
16 *business in one or more enterprise zones, as a condition of claiming*
17 *a credit under this section.*

18 SEC. 26. *Section 17053.74 of the Revenue and Taxation Code*
19 *is amended to read:*

20 17053.74. (a) There shall be allowed a credit against the “net
21 tax” (as defined in Section 17039) to a taxpayer who employs a
22 qualified employee in an enterprise zone during the taxable year.
23 The credit shall be equal to the sum of each of the following:

24 (1) Fifty percent of qualified wages in the first year of
25 employment.

26 (2) Forty percent of qualified wages in the second year of
27 employment.

28 (3) Thirty percent of qualified wages in the third year of
29 employment.

30 (4) Twenty percent of qualified wages in the fourth year of
31 employment.

32 (5) Ten percent of qualified wages in the fifth year of
33 employment.

34 (b) For purposes of this section:

35 (1) “Qualified wages” means:

36 (A) (i) Except as provided in clause (ii), that portion of wages
37 paid or incurred by the taxpayer during the taxable year to qualified
38 employees that does not exceed 150 percent of the minimum wage.

39 (ii) For up to 1,350 qualified employees who are employed by
40 the taxpayer in the Long Beach Enterprise Zone in aircraft

1 manufacturing activities described in Codes ~~3721 to 3728,~~
2 ~~inclusive, and Code 3812 of the Standard Industrial Classification~~
3 ~~(SIC) Manual 311 to 339, inclusive, of the North American Industry~~
4 ~~Classification System~~ published by the United States Office of
5 Management and Budget, ~~1987 2007~~ edition, “qualified wages”
6 means that portion of hourly wages that does not exceed 202
7 percent of the minimum wage.

8 (B) Wages received during the 60-month period beginning with
9 the first day the employee commences employment with the
10 taxpayer. Reemployment in connection with any increase, including
11 a regularly occurring seasonal increase, in the trade or business
12 operations of the taxpayer does not constitute commencement of
13 employment for purposes of this section.

14 (C) Qualified wages do not include any wages paid or incurred
15 by the taxpayer on or after the zone expiration date. However,
16 wages paid or incurred with respect to qualified employees who
17 are employed by the taxpayer within the enterprise zone within
18 the 60-month period prior to the zone expiration date shall continue
19 to qualify for the credit under this section after the zone expiration
20 date, in accordance with all provisions of this section applied as
21 if the enterprise zone designation were still in existence and
22 binding.

23 (2) “Minimum wage” means the wage established by the
24 Industrial Welfare Commission as provided for in Chapter 1
25 (commencing with Section 1171) of Part 4 of Division 2 of the
26 Labor Code.

27 (3) “Zone expiration date” means the date the enterprise zone
28 designation expires, is no longer binding, or becomes inoperative.

29 (4) (A) “Qualified employee” means an individual who *was*
30 *hired by a taxpayer before January 1, 2011, and who* meets all of
31 the following requirements:

32 (i) At least 90 percent of whose services for the taxpayer during
33 the taxable year are directly related to the conduct of the taxpayer’s
34 trade or business located in an enterprise zone.

35 (ii) Performs at least 50 percent of his or her services for the
36 taxpayer during the taxable year in an enterprise zone.

37 (iii) Is hired by the taxpayer after the date of original designation
38 of the area in which services were performed as an enterprise zone.

39 (iv) Is any of the following:

1 ~~(I) Immediately preceding the qualified employee's~~
2 ~~commencement of employment with the taxpayer, was a person~~
3 ~~eligible for services under the federal Job Training Partnership~~
4 ~~Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,~~
5 ~~or is eligible to receive, subsidized employment, training, or~~
6 ~~services funded by the federal Job Training Partnership Act, or its~~
7 ~~successor.~~

8 ~~(II) Immediately preceding the qualified employee's~~
9 ~~commencement of employment with the taxpayer, was a person~~
10 ~~eligible to be a voluntary or mandatory registrant under the Greater~~
11 ~~Avenues for Independence Act of 1985 (GAIN) provided for~~
12 ~~pursuant to Article 3.2 (commencing with Section 11320) of~~
13 ~~Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~
14 ~~Code, or its successor.~~

15 ~~(III)~~

16 ~~(I) Immediately preceding the qualified employee's~~
17 ~~commencement of employment with the taxpayer, was an~~
18 ~~economically disadvantaged individual 14 years of age or older.~~

19 ~~(IV)~~

20 ~~(II) Immediately preceding the qualified employee's~~
21 ~~commencement of employment with the taxpayer, was a dislocated~~
22 ~~worker who meets any of the following:~~

23 ~~(aa) Has been terminated or laid off or who has received a notice~~
24 ~~of termination or layoff from employment, is eligible for or has~~
25 ~~exhausted entitlement to unemployment insurance benefits, and~~
26 ~~is unlikely to return to his or her previous industry or occupation.~~

27 ~~(bb) Has been terminated or has received a notice of termination~~
28 ~~of employment as a result of any permanent closure or any~~
29 ~~substantial layoff at a plant, facility, or enterprise, including an~~
30 ~~individual who has not received written notification but whose~~
31 ~~employer has made a public announcement of the closure or layoff.~~

32 ~~(cc) Is long-term unemployed and has limited opportunities for~~
33 ~~employment or reemployment in the same or a similar occupation~~
34 ~~in the area in which the individual resides, including an individual~~
35 ~~55 years of age or older who may have substantial barriers to~~
36 ~~employment by reason of age.~~

37 ~~(dd) Was self-employed (including farmers and ranchers) and~~
38 ~~is unemployed as a result of general economic conditions in the~~
39 ~~community in which he or she resides or because of natural~~
40 ~~disasters.~~

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the *federal* Clean Air Act.

~~(V)~~

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan ~~or is~~.

(IV) *Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.*

~~(VI)~~

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~(VII)~~

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

~~(bb) Aid to Families with Dependent Children Temporary Assistance for Needy Families.~~

~~(cc) Medi-Cal or Healthy Families.~~

~~(ee)~~

~~(dd)~~ Food stamps.

~~(dd)~~

(ee) State and local general assistance.

1 (ff) *Intensive services, including employment training services,*
2 *funded through the federal Workforce Investment Act (Public Law*
3 *105-220).*

4 (gg) *Voluntary or mandatory services under the California Work*
5 *Opportunity and Responsibility to Kids (CalWORKs) program*
6 *(Chapter 2 (commencing with Section 11200) of Part 3 of Division*
7 *9 of the Welfare and Institutions Code).*

8 (hh) *Federal Work Opportunity Tax Credit (Section 51 of the*
9 *Internal Revenue Code).*

10 ~~(VIII)~~

11 (VII) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a member
13 of a federally recognized Indian tribe, band, or other group of
14 Native American descent.

15 ~~(IX)~~

16 (VIII) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was a resident
18 of a targeted employment area, as defined in Section 7072 of the
19 Government Code.

20 ~~(X)~~

21 (IX) An employee who qualified the taxpayer for the enterprise
22 zone hiring credit under former Section 17053.8 or the program
23 area hiring credit under former Section 17053.11.

24 ~~(XI) Immediately preceding the qualified employee's~~
25 ~~commencement of employment with the taxpayer, was a member~~
26 ~~of a targeted group, as defined in Section 51(d) of the Internal~~
27 ~~Revenue Code, or its successor.~~

28 (B) Priority for employment shall be provided to an individual
29 who is enrolled in a qualified program under the federal ~~Job~~
30 ~~Training Partnership Act or the Greater Avenues for Independence~~
31 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~
32 or who is eligible as a member of a targeted group under the Work
33 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
34 or its successor.

35 (5) "Taxpayer" means a person or entity engaged in a trade or
36 business within an enterprise zone designated pursuant to Chapter
37 12.8 (commencing with Section 7070) of the Government Code.

38 (6) "Seasonal employment" means employment by a taxpayer
39 that has regular and predictable substantial reductions in trade or
40 business operations.

1 (c) The taxpayer shall do both of the following:

2 (1) Obtain from the Employment Development Department, as
3 permitted by federal law, the local county or city ~~Job Training~~
4 ~~Partnership Act administrative entity, the local county GAIN~~
5 ~~federal Workforce Investment Act administrative entity, the local~~
6 ~~county CalWORKs program~~ office or social services agency, or
7 the local government administering the enterprise zone, a
8 certification which provides that a qualified employee meets the
9 eligibility requirements specified in clause (iv) of subparagraph
10 (A) of paragraph (4) of subdivision (b). The Employment
11 Development Department may provide preliminary screening and
12 referral to ~~a certifying agency. The Employment Development~~
13 ~~Department shall develop a form for this purpose~~ *businesses*
14 *located in an enterprise zone as of the department's implementation*
15 *of the intensive services activities funded through the federal*
16 *Workforce Investment Act.* The Department of Housing and
17 Community Development shall develop regulations governing the
18 issuance of certificates by local governments pursuant to
19 subdivision (a) of Section 7086 of the Government Code.

20 (2) Retain a copy of the certification and provide it upon request
21 to the Franchise Tax Board.

22 (d) (1) For purposes of this section:

23 (A) All employees of trades or businesses, which are not
24 incorporated, that are under common control shall be treated as
25 employed by a single taxpayer.

26 (B) The credit, if any, allowable by this section with respect to
27 each trade or business shall be determined by reference to its
28 proportionate share of the expense of the qualified wages giving
29 rise to the credit, and shall be allocated in that manner.

30 (C) Principles that apply in the case of controlled groups of
31 corporations, as specified in subdivision (d) of Section 23622.7,
32 shall apply with respect to determining employment.

33 (2) If an employer acquires the major portion of a trade or
34 business of another employer (hereinafter in this paragraph referred
35 to as the "predecessor") or the major portion of a separate unit of
36 a trade or business of a predecessor, then, for purposes of applying
37 this section (other than subdivision (e)) for any calendar year
38 ending after that acquisition, the employment relationship between
39 a qualified employee and an employer shall not be treated as

1 terminated if the employee continues to be employed in that trade
2 or business.

3 (e) (1) (A) If the employment, other than seasonal employment,
4 of any qualified employee, with respect to whom qualified wages
5 are taken into account under subdivision (a) is terminated by the
6 taxpayer at any time during the first 270 days of that employment
7 (whether or not consecutive) or before the close of the 270th
8 calendar day after the day in which that employee completes 90
9 days of employment with the taxpayer, the tax imposed by this
10 part for the taxable year in which that employment is terminated
11 shall be increased by an amount equal to the credit allowed under
12 subdivision (a) for that taxable year and all prior taxable years
13 attributable to qualified wages paid or incurred with respect to that
14 employee.

15 (B) If the seasonal employment of any qualified employee, with
16 respect to whom qualified wages are taken into account under
17 subdivision (a) is not continued by the taxpayer for a period of
18 270 days of employment during the 60-month period beginning
19 with the day the qualified employee commences seasonal
20 employment with the taxpayer, the tax imposed by this part, for
21 the taxable year that includes the 60th month following the month
22 in which the qualified employee commences seasonal employment
23 with the taxpayer, shall be increased by an amount equal to the
24 credit allowed under subdivision (a) for that taxable year and all
25 prior taxable years attributable to qualified wages paid or incurred
26 with respect to that qualified employee.

27 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
28 any of the following:

29 (i) A termination of employment of a qualified employee who
30 voluntarily leaves the employment of the taxpayer.

31 (ii) A termination of employment of a qualified employee who,
32 before the close of the period referred to in paragraph (1), becomes
33 disabled and unable to perform the services of that employment,
34 unless that disability is removed before the close of that period
35 and the taxpayer fails to offer reemployment to that employee.

36 (iii) A termination of employment of a qualified employee, if
37 it is determined that the termination was due to the misconduct (as
38 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
39 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 taxpayer fails to offer seasonal employment to that qualified
19 employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and a qualified employee shall not be treated
34 as terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the qualified employee
36 continues to be employed in that trade or business and the taxpayer
37 retains a substantial interest in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (f) In the case of an estate or trust, both of the following apply:

2 (1) The qualified wages for any taxable year shall be apportioned
3 between the estate or trust and the beneficiaries on the basis of the
4 income of the estate or trust allocable to each.

5 (2) Any beneficiary to whom any qualified wages have been
6 apportioned under paragraph (1) shall be treated, for purposes of
7 this part, as the employer with respect to those wages.

8 (g) For purposes of this section, “enterprise zone” means an
9 area designated as an enterprise zone pursuant to Chapter 12.8
10 (commencing with Section 7070) of Division 7 of Title 1 of the
11 Government Code.

12 (h) The credit allowable under this section shall be reduced by
13 the credit allowed under Sections 17053.10, 17053.17, and
14 17053.46 claimed for the same employee. The credit shall also be
15 reduced by the federal credit allowed under Section 51 of the
16 Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the taxpayer upon which
19 the credit is based shall be reduced by the amount of the credit,
20 prior to any reduction required by subdivision (i) or (j).

21 (i) In the case where the credit otherwise allowed under this
22 section exceeds the “net tax” for the taxable year, that portion of
23 the credit that exceeds the “net tax” may be carried over and added
24 to the credit, if any, in succeeding taxable years, until the credit is
25 exhausted. The credit shall be applied first to the earliest taxable
26 years possible.

27 (j) (1) The amount of the credit otherwise allowed under this
28 section and Section 17053.70, including any credit carryover from
29 prior years, that may reduce the “net tax” for the taxable year shall
30 not exceed the amount of tax which would be imposed on the
31 taxpayer’s business income attributable to the enterprise zone
32 determined as if that attributable income represented all of the
33 income of the taxpayer subject to tax under this part.

34 (2) Attributable income shall be that portion of the taxpayer’s
35 California source business income that is apportioned to the
36 enterprise zone. For that purpose, the taxpayer’s business income
37 attributable to sources in this state first shall be determined in
38 accordance with Chapter 17 (commencing with Section 25101) of
39 Part 11. That business income shall be further apportioned to the
40 enterprise zone in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes
2 of this section in accordance with paragraph (3).

3 (3) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the taxpayer
5 by a fraction, the numerator of which is the property factor plus
6 the payroll factor, and the denominator of which is two. For
7 purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone during
16 the taxable year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "net tax" for the
22 taxable year, as provided in subdivision (i).

23 (k) The changes made to this section by the act adding this
24 subdivision shall apply to taxable years beginning on or after
25 January 1, 1997.

26 (l) *The changes made to this section by the act adding this*
27 *subdivision shall apply only to qualified employees hired prior to*
28 *January 1, 2011.*

29 (m) *This section shall remain in effect only until January 1,*
30 *2017, and as of that date is repealed.*

31 SEC. 27. *Section 17235 of the Revenue and Taxation Code is*
32 *amended to read:*

33 17235. (a) ~~There~~ (1) *For taxable years beginning on or after*
34 *January 1, 2011, and before January 1, 2013, there shall be*
35 *allowed as a deduction in an amount equal to 50 percent of the*
36 *amount of net interest received by the taxpayer in payment on*
37 *indebtedness of a person or entity engaged in the conduct of a*
38 *trade or business located in an enterprise zone.*

39 (2) *For taxable years beginning on or after January 1, 2013,*
40 *there shall be allowed as a deduction the amount of net interest*

1 received by the taxpayer in payment on indebtedness of a person
2 or entity engaged in the conduct of a trade or business located in
3 an enterprise zone.

4 (b) ~~No~~ A deduction shall be allowed under this section ~~unless~~
5 *only if* at the time the indebtedness is incurred each of the following
6 requirements are met:

7 (1) The trade or business is located solely within an enterprise
8 zone.

9 (2) The indebtedness is incurred solely in connection with
10 activity within the enterprise zone.

11 (3) The taxpayer has no equity or other ownership interest in
12 the debtor.

13 (c) "Enterprise zone" means an area designated as an enterprise
14 zone pursuant to Chapter 12.8 (commencing with Section 7070)
15 of Division 7 of Title 1 of the Government Code.

16 (d) *For taxable years beginning on or after January 1, 2011, a*
17 *taxpayer shall be required to register a business pursuant to the*
18 *Enterprise Zone Act (Chapter 12.8 (commencing with Section*
19 *7070) of Division 7 of Title 1 of the Government Code), and shall*
20 *state under penalty of perjury that the taxpayer is a registered*
21 *business in one or more enterprise zones, as a condition of claiming*
22 *a deduction under this section.*

23 (e) *The changes made to this section by the act adding this*
24 *subdivision shall apply only to taxable years beginning on or after*
25 *January 1, 2011.*

26 SEC. 28. Section 17276.2 of the Revenue and Taxation Code
27 is amended to read:

28 17276.2. (a) The term "qualified taxpayer" as used in Section
29 17276.1 includes a person or entity engaged in the conduct of a
30 trade or business within an enterprise zone designated pursuant to
31 Chapter 12.8 (commencing with Section 7070) of Division 7 of
32 Title 1 of the Government Code. For purposes of this subdivision,
33 all of the following shall apply:

34 (1) A net operating loss shall not be a net operating loss
35 carryback to any taxable year and a net operating loss for any
36 taxable year beginning on or after the date that the area in which
37 the taxpayer conducts a trade or business is designated as an
38 enterprise zone shall be a net operating loss carryover to each of
39 the 15 taxable years following the taxable year of loss.

40 (2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(i) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(I) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during

1 the taxable year for compensation, and the denominator of which
2 is the total compensation paid by the taxpayer in this state during
3 the taxable year.

4 (ii) If a loss carryover is allowable pursuant to this section for
5 any taxable year after the enterprise zone designation has expired,
6 the enterprise zone shall be deemed to remain in existence for
7 purposes of computing the limitation set forth in subparagraph (B)
8 and allowing a net operating loss deduction.

9 (D) "Enterprise zone expiration date" means the date the
10 enterprise zone designation expires, is no longer binding, or
11 becomes inoperative.

12 (3) The changes made to this subdivision by the act adding this
13 paragraph shall apply to taxable years beginning on or after January
14 1, 1998.

15 (b) A taxpayer who qualifies as a "qualified taxpayer" under
16 one or more sections shall, for the taxable year of the net operating
17 loss and any taxable year to which that net operating loss may be
18 carried, designate on the original return filed for each year the
19 section which applies to that taxpayer with respect to that net
20 operating loss. If the taxpayer is eligible to qualify under more
21 than one section, the designation is to be made after taking into
22 account subdivision (c).

23 (c) If a taxpayer is eligible to qualify under this section and
24 either Section 17276.4, 17276.5, or 17276.6 as a "qualified
25 taxpayer," with respect to a net operating loss in a taxable year,
26 the taxpayer shall designate which section is to apply to the
27 taxpayer.

28 (d) Notwithstanding Section 17276, the amount of the loss
29 determined under this section or Section 17276.4, 17276.5, or
30 17276.6 shall be the only net operating loss allowed to be carried
31 over from that taxable year and the designation under subdivision
32 (b) shall be included in the election under Section 17276.1.

33 (e) *This section shall remain in effect only until January 1, 2011,*
34 *and as of that date is repealed.*

35 SEC. 29. *Section 17276.5 of the Revenue and Taxation Code*
36 *is amended to read:*

37 17276.5. (a) For each taxable year beginning on or after
38 January 1, 1995, the term "qualified taxpayer" as used in Section
39 17276.1 includes a taxpayer engaged in the conduct of a trade or

1 business within a LAMBRA. For purposes of this subdivision, all
2 of the following shall apply:

3 (1) A net operating loss shall not be a net operating loss
4 carryback for any taxable year, and a net operating loss for any
5 taxable year beginning on or after the date the area in which the
6 taxpayer conducts a trade or business is designated a LAMBRA
7 shall be a net operating loss carryover to each following taxable
8 year that ends before the LAMBRA expiration date or to each of
9 the 15 taxable years following the taxable year of loss, if longer.

10 (2) “LAMBRA” means a local agency military base recovery
11 area designated in accordance with Section 7114 of the Government
12 Code.

13 (3) “Taxpayer” means a person or entity that conducts a trade
14 or business within a LAMBRA and, for the first two taxable years,
15 has a net increase in jobs (defined as 2,000 paid hours per employee
16 per year) of one or more employees in the LAMBRA and this state.
17 For purposes of this paragraph:

18 (A) The net increase in the number of jobs shall be determined
19 by subtracting the total number of full-time employees (defined
20 as 2,000 paid hours per employee per year) the taxpayer employed
21 in this state in the taxable year prior to commencing business
22 operations in the LAMBRA from the total number of full-time
23 employees the taxpayer employed in this state during the second
24 taxable year after commencing business operations in the
25 LAMBRA. For taxpayers who commence doing business in this
26 state with their LAMBRA business operation, the number of
27 employees for the taxable year prior to commencing business
28 operations in the LAMBRA shall be zero. The deduction shall be
29 allowed only if the taxpayer has a net increase in jobs in the state,
30 and if one or more full-time employees is employed within the
31 LAMBRA.

32 (B) The total number of employees employed in the LAMBRA
33 shall equal the sum of both of the following:

34 (i) The total number of hours worked in the LAMBRA for the
35 taxpayer by employees (not to exceed 2,000 hours per employee)
36 who are paid an hourly wage divided by 2,000.

37 (ii) The total number of months worked in the LAMBRA for
38 the taxpayer by employees who are salaried employees divided
39 by 12.

1 (C) In the case of a taxpayer who first commences doing
2 business in the LAMBRA during the taxable year, for purposes of
3 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
4 “2,000” and “12” shall be multiplied by a fraction, the numerator
5 of which is the number of months of the taxable year that the
6 taxpayer was doing business in the LAMBRA and the denominator
7 of which is 12.

8 (4) “Net operating loss” means the loss determined under
9 Section 172 of the Internal Revenue Code, as modified by Section
10 17276.1, attributable to the taxpayer’s business activities within a
11 LAMBRA prior to the LAMBRA expiration date. The attributable
12 loss shall be determined in accordance with Chapter 17
13 (commencing with Section 25101) of Part 11, modified for
14 purposes of this section as follows:

15 (A) Loss shall be apportioned to a LAMBRA by multiplying
16 total loss from the business by a fraction, the numerator of which
17 is the property factor plus the payroll factor, and the denominator
18 of which is 2.

19 (B) “The LAMBRA” shall be substituted for “this state.”

20 (5) A net operating loss carryover shall be a deduction only with
21 respect to the taxpayer’s business income attributable to a
22 LAMBRA.

23 (6) Attributable income is that portion of the taxpayer’s
24 California source business income that is apportioned to the
25 LAMBRA. For that purpose, the taxpayer’s business income
26 attributable to sources in this state first shall be determined in
27 accordance with Chapter 17 (commencing with Section 25101) of
28 Part 11. That business income shall be further apportioned to the
29 LAMBRA in accordance with Article 2 (commencing with Section
30 25120) of Chapter 17 of Part 11, modified for purposes of this
31 subdivision as follows:

32 (A) Business income shall be apportioned to a LAMBRA by
33 multiplying total California business income of the taxpayer by a
34 fraction, the numerator of which is the property factor plus the
35 payroll factor, and the denominator of which is two. For purposes
36 of this clause:

37 (i) The property factor is a fraction, the numerator of which is
38 the average value of the taxpayer’s real and tangible personal
39 property owned or rented and used in the LAMBRA during the
40 taxable year, and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (ii) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the LAMBRA during the
5 taxable year for compensation, and the denominator of which is
6 the total compensation paid by the taxpayer in this state during the
7 taxable year.

8 (B) If a loss carryover is allowable pursuant to this section for
9 any taxable year after the LAMBRA designation has expired, the
10 LAMBRA shall be deemed to remain in existence for purposes of
11 computing the limitation specified in paragraph (5) and allowing
12 a net operating loss deduction.

13 (7) "LAMBRA expiration date" means the date the LAMBRA
14 designation expires, is no longer binding, or becomes inoperative
15 pursuant to Section 7110 of the Government Code.

16 (b) A taxpayer who qualifies as a "qualified taxpayer" under
17 one or more sections shall, for the taxable year of the net operating
18 loss and any taxable year to which that net operating loss may be
19 carried, designate on the original return filed for each year the
20 section that applies to that taxpayer with respect to that net
21 operating loss. If the taxpayer is eligible to qualify under more
22 than one section, the designation is to be made after taking into
23 account subdivision (c).

24 (c) If a taxpayer is eligible to qualify under this section and
25 either Section 17276.2, 17276.4, or 17276.6 as a "qualified
26 taxpayer," with respect to a net operating loss in a taxable year,
27 the taxpayer shall designate which section is to apply to the
28 taxpayer.

29 (d) Notwithstanding Section 17276, the amount of the loss
30 determined under this section or Section 17276.2, 17276.4, or
31 17276.6 shall be the only net operating loss allowed to be carried
32 over from that taxable year and the designation under subdivision
33 (b) shall be included in the election under Section 17276.1.

34 (e) This section shall apply to taxable years beginning on or
35 after January 1, 1998.

36 (f) *This section shall remain in effect only until January 1, 2011,*
37 *and as of that date is repealed.*

38 SEC. 30. Section 17276.11 is added to the Revenue and
39 Taxation Code, to read:

17276.11. Notwithstanding the repeal of Sections 17276.2 and 17276.5 by the act adding this section, any remaining carryover of a net operating loss allowed by Section 17276.2 or 17276.5 shall continue to be allowed as a net operating loss carryover to subsequent taxable years as provided by those sections as they read immediately prior to being repealed.

SEC. 31. Section 23036.3 is added to the Revenue and Taxation Code, to read:

23036.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for each taxable year beginning on or after January 1, 2011, and before January 1, 2013, the total of all credits otherwise allowable under Sections 23612.2, 23622.6, 23622.7, 23633, 23645, and 23646, including the carryover of these credits, for the taxable year shall not reduce the "tax," as defined in Section 23036, below the applicable amount.

(b) For purposes of this section, the "applicable amount" shall be equal to 50 percent of the "tax," as defined in Section 23036, within the enterprise zone, targeted tax area, or LAMBRA, where the credit was earned, before application of any credits.

(c) The amount of any credit otherwise allowable for the taxable year under Sections 23612.2, 23622.6, 23622.7, 23645, and 23646 that is not allowed due to the application of this section shall remain a credit carryover amount as otherwise allowed by this part.

(d) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit, or any portion thereof, was not allowed.

(e) This section shall not apply to a taxpayer with gross income of less than one million dollars (\$1,000,000) for the taxable year.

(f) This section shall remain in effect only until December 1, 2013, and as of that date is repealed.

SEC. 32. Section 23612.2 of the Revenue and Taxation Code is amended to read:

23612.2. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property.

(b) For purposes of this section:

1 (1) “Taxpayer” means a corporation engaged in a trade or
2 business within an enterprise zone.

3 (2) “Qualified property” means:

4 (A) Any of the following:

5 (i) Machinery and machinery parts used for fabricating,
6 processing, assembling, and manufacturing.

7 (ii) Machinery and machinery parts used for the production of
8 renewable energy resources.

9 (iii) Machinery and machinery parts used for either of the
10 following:

11 (I) Air pollution control mechanisms.

12 (II) Water pollution control mechanisms.

13 (iv) Data-processing and communications equipment, including,
14 but not limited to, computers, computer-automated drafting
15 systems, copy machines, telephone systems, and faxes.

16 (v) Motion picture manufacturing equipment central to
17 production and postproduction, including, but not limited to,
18 cameras, audio recorders, and digital image and sound processing
19 equipment.

20 (B) The total cost of qualified property purchased and placed
21 in service in any taxable year that may be taken into account by
22 any taxpayer for purposes of claiming this credit shall not exceed
23 twenty million dollars (\$20,000,000).

24 (C) The qualified property is used by the taxpayer exclusively
25 in an enterprise zone.

26 (D) The qualified property is purchased and placed in service
27 before the date the enterprise zone designation expires, is no longer
28 binding, or becomes inoperative.

29 (3) “Enterprise zone” means the area designated as an enterprise
30 zone pursuant to Chapter 12.8 (commencing with Section 7070)
31 of Division 7 of Title 1 of the Government Code.

32 (c) If the taxpayer has purchased property upon which a use tax
33 has been paid or incurred, the credit provided by this section shall
34 be allowed only if qualified property of a comparable quality and
35 price is not timely available for purchase in this state.

36 (d) In the case where the credit otherwise allowed under this
37 section exceeds the “tax” for the taxable year, that portion of the
38 credit which exceeds the “tax” may be carried over and added to
39 the credit, if any, in the following year, and *the* succeeding 14

years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer's purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 23622.7, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (d).

(g) *A taxpayer shall be required to register a business pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more enterprise zones, as a condition of claiming a credit under this section.*

~~(g)~~
(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(i) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.*

SEC. 33. *Section 23622.6 is added to the Revenue and Taxation Code, to read:*

23622.6. (a) *For each taxable year beginning on or after January 1, 2011, there shall be allowed a credit against the “tax” (as defined by Section 23036) to a taxpayer that employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:*

(1) *Thirty percent of qualified wages in the first year of employment.*

(2) *Forty percent of qualified wages in the second year of employment.*

(3) *Fifty percent of qualified wages in the third year of employment.*

(b) *For purposes of this section:*

(1) *“Controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:*

(i) *“More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.*

(ii) *The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.*

1 (2) “Enterprise zone” means an area designated as an
2 enterprise zone pursuant to Chapter 12.8 (commencing with
3 Section 7070) of Division 7 of Title 1 of the Government Code.

4 (3) “Minimum wage” means the wage established by the
5 Industrial Welfare Commission as provided for in Chapter 1
6 (commencing with Section 1171) of Part 4 of Division 2 of the
7 Labor Code.

8 (4) (A) “Qualified employee” means an individual who was
9 hired by a taxpayer on or after January 1, 2011, and who meets
10 all of the following requirements:

11 (i) At least 90 percent of whose services for the taxpayer during
12 the taxable year are directly related to the conduct of the
13 taxpayer’s trade or business located in an enterprise zone.

14 (ii) Performs at least 50 percent of his or her services for the
15 taxpayer during the taxable year in an enterprise zone.

16 (iii) Is hired by the taxpayer after the date of original
17 designation of the area in which services were performed as an
18 enterprise zone.

19 (iv) Is any of the following:

20 (I) Immediately preceding the qualified employee’s
21 commencement of employment with the taxpayer, was an
22 economically disadvantaged individual 14 years of age or older.

23 (II) Immediately preceding the qualified employee’s
24 commencement of employment with the taxpayer, was a dislocated
25 worker who meets any of the following:

26 (ia) Has been terminated or laid off or who has received a notice
27 of termination or layoff from employment, is eligible for or has
28 exhausted entitlement to unemployment insurance benefits, and is
29 unlikely to return to his or her previous industry or occupation.

30 (ib) Has been terminated or has received a notice of termination
31 of employment as a result of any permanent closure or any
32 substantial layoff at a plant, facility, or enterprise, including an
33 individual who has not received written notification but whose
34 employer has made a public announcement of the closure or layoff.

35 (ic) Is long-term unemployed and has limited opportunities for
36 employment or reemployment in the same or a similar occupation
37 in the area in which the individual resides, including an individual
38 55 years of age or older who may have substantial barriers to
39 employment by reason of age.

1 *(id) Was self-employed (including farmers and ranchers) and*
2 *is unemployed as a result of general economic conditions in the*
3 *community in which he or she resides or because of natural*
4 *disasters.*

5 *(ie) Was a civilian employee of the Department of Defense*
6 *employed at a military installation being closed or realigned under*
7 *the Defense Base Closure and Realignment Act of 1990.*

8 *(if) Was an active member of the armed forces or National*
9 *Guard as of September 30, 1990, and was either involuntarily*
10 *separated or separated pursuant to a special benefits program.*

11 *(ig) Is a seasonal or migrant worker who experiences chronic*
12 *seasonal unemployment and underemployment in the agriculture*
13 *industry, aggravated by continual advancements in technology*
14 *and mechanization.*

15 *(ih) Has been terminated or laid off, or has received a notice*
16 *of termination or layoff, as a consequence of compliance with the*
17 *federal Clean Air Act.*

18 *(III) Immediately preceding the qualified employee's*
19 *commencement of employment with the taxpayer, was a disabled*
20 *individual who is eligible for or enrolled in, or has completed a*
21 *state rehabilitation plan.*

22 *(IV) Immediately preceding the qualified employee's*
23 *commencement of employment with the taxpayer, was a*
24 *service-connected disabled veteran, veteran of the Vietnam era,*
25 *or veteran who is recently separated from military service.*

26 *(V) Immediately preceding the qualified employee's*
27 *commencement of employment with the taxpayer, was an*
28 *ex-offender. An individual shall be treated as convicted if he or*
29 *she was placed on probation by a state court without a finding of*
30 *guilt.*

31 *(VI) Immediately preceding the qualified employee's*
32 *commencement of employment with the taxpayer, was a person*
33 *eligible for or a recipient of any of the following:*

34 *(ia) Federal Supplemental Security Income benefits.*

35 *(ib) Temporary Assistance for Needy Families.*

36 *(ic) Medi-Cal or Healthy Families.*

37 *(id) Food stamps.*

38 *(ie) State and local general assistance.*

1 ~~(if) Intensive services including employment training services~~
2 ~~funded through the federal Workforce Investment Act (Public Law~~
3 ~~105-220).~~

4 ~~(ig) Voluntary or mandatory services under the California Work~~
5 ~~Opportunity and Responsibility to Kids (CalWORKs) program~~
6 ~~(Chapter 2 (commencing with Section 11200) of Part 3 of Division~~
7 ~~9 of the Welfare and Institutions Code).~~

8 ~~(ih) Federal Work Opportunity Tax Credit (Section 51 of the~~
9 ~~Internal Revenue Code).~~

10 ~~(VII) Immediately preceding the qualified employee's~~
11 ~~commencement of employment with the taxpayer, was a member~~
12 ~~of a federally recognized Indian tribe, band, or other group of~~
13 ~~Native American descent.~~

14 ~~(VIII) Immediately preceding the qualified employee's~~
15 ~~commencement of employment with the taxpayer, was a resident~~
16 ~~of a targeted employment area, as defined in Section 7072 of the~~
17 ~~Government Code, and the employee is receiving a wage that does~~
18 ~~not exceed the median income for a family of four within the census~~
19 ~~block groups of the enterprise zone, as defined by the United States~~
20 ~~Census Bureau.~~

21 ~~(IX) An employee who qualified the taxpayer for the enterprise~~
22 ~~zone hiring credit under former Section 23622 or the program~~
23 ~~area hiring credit under former Section 23623.~~

24 ~~(B) Priority for employment shall be provided to an individual~~
25 ~~who is enrolled in a qualified program under the federal Workforce~~
26 ~~Investment Act or the CalWORKs program or who is eligible as~~
27 ~~a member of a targeted group under the Work Opportunity Tax~~
28 ~~Credit (Section 51 of the Internal Revenue Code), or its successor.~~

29 ~~(5) "Qualified wages" means:~~

30 ~~(A) (i) Except as provided in clause (ii), that portion of wages~~
31 ~~paid or incurred by the taxpayer during the taxable year to~~
32 ~~qualified employees that does not exceed 180 percent of the~~
33 ~~minimum wage.~~

34 ~~(ii) Qualified employees who are employed by a taxpayer~~
35 ~~manufacturing activities described in Codes 311 to 339, inclusive,~~
36 ~~of the North American Industry Classification System published~~
37 ~~by the United States Office of Management and Budget, 2007~~
38 ~~edition, "qualified wages" means that portion of hourly wages~~
39 ~~that does not exceed 202 percent of the minimum wage.~~

1 (B) Wages received during the 36-month period beginning with
2 the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operations of the taxpayer does not constitute commencement of
6 employment for purposes of this section.

7 (C) Qualified wages shall not include any wages paid or
8 incurred by the taxpayer on or after the zone expiration date.
9 However, wages paid or incurred with respect to qualified
10 employees who are employed by the taxpayer within the enterprise
11 zone within the 36-month period prior to the zone expiration date
12 shall continue to qualify for the credit under this section after the
13 zone expiration date, in accordance with all provisions of this
14 section applied as if the enterprise zone designation were still in
15 existence and binding.

16 (6) "Seasonal employment" means employment by a taxpayer
17 that has regular and predictable substantial reductions in trade
18 or business operations.

19 (7) "Taxpayer" means a corporation engaged in a trade or
20 business within an enterprise zone designated pursuant to Chapter
21 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
22 the Government Code.

23 (8) "Zone expiration date" means the date the enterprise zone
24 designation expires, is no longer binding, or becomes inoperative.

25 (c) The taxpayer shall do both of the following:

26 (1) Apply for certification, within 36 months of an employee
27 being hired, from the Employment Development Department, as
28 permitted by federal law, the local county or city federal Workforce
29 Investment Act administrative entity, the local county CalWORKs
30 program office or social services agency, or the local government
31 administering the enterprise zone, a certification that provides
32 that a qualified employee meets the eligibility requirements
33 specified in clause (iv) of subparagraph (A) of paragraph (4) of
34 subdivision (b). The Employment Development Department may
35 provide preliminary screening and referral to businesses located
36 in an enterprise zone as part of the department's implementation
37 of the intensive services activities funded through the federal
38 Workforce Investment Act. The Department of Housing and
39 Community Development shall develop regulations governing the

1 issuance of certificates by local governments pursuant to
2 subdivision (a) of Section 7086 of the Government Code.

3 (2) Retain a copy of the certification and provide it upon request
4 to the Franchise Tax Board.

5 (d) (1) For purposes of this section:

6 (A) All employees of all corporations which are members of the
7 same controlled group of corporations shall be treated as employed
8 by a single taxpayer.

9 (B) The credit, if any, allowable by this section to each member
10 shall be determined by reference to its proportionate share of the
11 expense of the qualified wages giving rise to the credit, and shall
12 be allocated in that manner.

13 (2) (A) If an employer acquires the major portion of a trade or
14 business of another employer (hereinafter in this paragraph
15 referred to as the "predecessor") or the major portion of a
16 separate unit of a trade or business of a predecessor, then, for
17 purposes of applying this section (other than subdivision (e)) for
18 any calendar year ending after that acquisition, the employment
19 relationship between a qualified employee and an employer shall
20 not be treated as terminated if the employee continues to be
21 employed in that trade or business.

22 (B) If a taxpayer relocated to an enterprise zone from within
23 the state, the taxpayer shall be allowed a credit only for that
24 number of employees that exceeds the number of employees at the
25 previous location. The number of employees at the previous
26 location and the type of jobs undertaken shall be established by
27 the Employment Development Department. Exceptions to this
28 subparagraph shall be limited to the following:

29 (i) Employees who undertake core work activities or activities
30 that are the primary job duties of the employee that are
31 significantly different from those activities at the previous location,
32 as determined by the Employment Development Department.

33 (ii) Employees of taxpayers that receive a bona fide offer to
34 relocate to another state.

35 (iii) Employees who relocate as a result of a natural disaster,
36 civic unrest, or eminent domain proceeding.

37 (e) (1) (A) If the employment, other than seasonal employment,
38 of any qualified employee with respect to whom qualified wages
39 are taken into account under subdivision (a), is terminated by the
40 taxpayer at any time during the first 300 days of that employment,

1 *whether or not consecutive, or before the close of the 300th*
2 *calendar day after the day in which that employee completes 90*
3 *days of employment with the taxpayer, the tax imposed by this part*
4 *for the taxable year in which that employment is terminated shall*
5 *be increased by an amount equal to the credit allowed under*
6 *subdivision (a) for that taxable year and all prior taxable years*
7 *attributable to qualified wages paid or incurred with respect to*
8 *that employee.*

9 *(B) If the seasonal employment of any qualified employee, with*
10 *respect to whom qualified wages are taken into account under*
11 *subdivision (a) is not continued by the taxpayer for a period of*
12 *300 days of employment during the 36-month period beginning*
13 *with the day the qualified employee commences seasonal*
14 *employment with the taxpayer, the tax imposed by this part, for*
15 *the taxable year that includes the 36th month following the month*
16 *in which the qualified employee commences seasonal employment*
17 *with the taxpayer, shall be increased by an amount equal to the*
18 *credit allowed under subdivision (a) for that taxable year and all*
19 *prior taxable years attributable to qualified wages paid or incurred*
20 *with respect to that qualified employee.*

21 *(2) (A) Subparagraph (A) of paragraph (1) shall not apply to*
22 *any of the following:*

23 *(i) A termination of employment of a qualified employee who*
24 *voluntarily leaves the employment of the taxpayer.*

25 *(ii) A termination of employment of a qualified employee who,*
26 *before the close of the period referred to in subparagraph (A) of*
27 *paragraph (1), becomes disabled and unable to perform the*
28 *services of that employment, unless that disability is removed*
29 *before the close of that period and the taxpayer fails to offer*
30 *reemployment to that employee.*

31 *(iii) A termination of employment of a qualified employee, if it*
32 *is determined that the termination was due to the misconduct (as*
33 *defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of*
34 *the California Code of Regulations) of that employee.*

35 *(iv) A termination of employment of a qualified employee due*
36 *to a substantial reduction in the trade or business operations of*
37 *the taxpayer.*

38 *(v) A termination of employment of a qualified employee, if that*
39 *employee is replaced by other qualified employees so as to create*

1 *a net increase in both the number of employees and the hours of*
2 *employment.*

3 *(B) Subparagraph (B) of paragraph (1) shall not apply to any*
4 *of the following:*

5 *(i) A failure to continue the seasonal employment of a qualified*
6 *employee who voluntarily fails to return to the seasonal*
7 *employment of the taxpayer.*

8 *(ii) A failure to continue the seasonal employment of a qualified*
9 *employee who, before the close of the period referred to in*
10 *subparagraph (B) of paragraph (1), becomes disabled and unable*
11 *to perform the services of that seasonal employment, unless that*
12 *disability is removed before the close of that period and the*
13 *taxpayer fails to offer seasonal employment to that qualified*
14 *employee.*

15 *(iii) A failure to continue the seasonal employment of a qualified*
16 *employee, if it is determined that the failure to continue the*
17 *seasonal employment was due to the misconduct (as defined in*
18 *Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California*
19 *Code of Regulations) of that qualified employee.*

20 *(iv) A failure to continue seasonal employment of a qualified*
21 *employee due to a substantial reduction in the regular seasonal*
22 *trade or business operations of the taxpayer.*

23 *(v) A failure to continue the seasonal employment of a qualified*
24 *employee, if that qualified employee is replaced by other qualified*
25 *employees so as to create a net increase in both the number of*
26 *seasonal employees and the hours of seasonal employment.*

27 *(C) For purposes of paragraph (1), the employment relationship*
28 *between the taxpayer and a qualified employee shall not be treated*
29 *as terminated by either of the following:*

30 *(i) By a transaction to which Section 381(a) of the Internal*
31 *Revenue Code applies, if the qualified employee continues to be*
32 *employed by the acquiring corporation.*

33 *(ii) By reason of a mere change in the form of conducting the*
34 *trade or business of the taxpayer, if the qualified employee*
35 *continues to be employed in that trade or business and the taxpayer*
36 *retains a substantial interest in that trade or business.*

37 *(3) Any increase in tax under paragraph (1) shall not be treated*
38 *as tax imposed by this part for purposes of determining the amount*
39 *of any credit allowable under this part.*

1 (f) Rules similar to the rules provided in Section 46(e) and (h)
2 of the Internal Revenue Code shall apply to both of the following:

3 (1) An organization to which Section 593 of the Internal Revenue
4 Code applies.

5 (2) A regulated investment company or a real estate investment
6 trust subject to taxation under this part.

7 (g) For purposes of this section, “enterprise zone” means an
8 area designated as an enterprise zone pursuant to Chapter 12.8
9 (commencing with Section 7070) of Division 7 of Title 1 of the
10 Government Code.

11 (h) The credit allowable under this section shall be reduced by
12 the credit allowed under Sections 23623.5, 23625, and 23646
13 claimed for the same employee. The credit shall also be reduced
14 by the federal credit allowed under Section 51 of the Internal
15 Revenue Code.

16 In addition, any deduction otherwise allowed under this part for
17 the wages or salaries paid or incurred by the taxpayer upon which
18 the credit is based shall be reduced by the amount of the credit,
19 prior to any reduction required by subdivision (i) or (j).

20 (i) In the case where the credit otherwise allowed under this
21 section exceeds the “tax” for the taxable year, that portion of the
22 credit that exceeds the “tax” may be carried over and added to
23 the credit, if any, in the following year, and the succeeding 14
24 taxable years, or until the credit is exhausted. The credit shall be
25 applied first to the earliest taxable years possible.

26 (j) (1) The amount of the credit otherwise allowed under this
27 section and Section 23612.2, including any credit carryover from
28 prior years, that may reduce the “tax” for the taxable year shall
29 not exceed the amount of tax which would be imposed on the
30 taxpayer’s business income attributable to the enterprise zone
31 determined as if that attributable income represented all of the
32 income of the taxpayer subject to tax under this part.

33 (2) Attributable income shall be that portion of the taxpayer’s
34 California source business income that is apportioned to the
35 enterprise zone. For that purpose, the taxpayer’s business
36 attributable to sources in this state first shall be determined in
37 accordance with Chapter 17 (commencing with Section 25101).
38 That business income shall be further apportioned to the enterprise
39 zone in accordance with Article 2 (commencing with Section

1 25120) of Chapter 17, modified for purposes of this section in
2 accordance with paragraph (3).

3 (3) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the taxpayer
5 by a fraction, the numerator of which is the property factor plus
6 the payroll factor, and the denominator of which is two. For
7 purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the income year, and the denominator of which is the average
12 value of all the taxpayer's real and tangible personal property
13 owned or rented and used in this state during the income year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone during
16 the income year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the income year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "tax" for the taxable
22 year, as provided in subdivision (i).

23 (k) A credit shall not be allowed under this section for a taxpayer
24 that has been notified by the Director of Industrial Relations of a
25 final determination, based on the taxpayer's history of significant
26 employment violations, that the taxpayer is considered by the
27 Department of Industrial Relations as a serious, repeated, and
28 willful violator of state employment laws, including, but not limited
29 to, demonstrating a failure to successfully abate these violations.

30 (l) A taxpayer shall be required to register a business pursuant
31 to the Enterprise Zone Act (Chapter 12.8 (commencing with Section
32 7070) of Division 7 of Title 1 of the Government Code), and shall
33 state under penalty of perjury that the taxpayer is a registered
34 business in one or more enterprise zones, as a condition of claiming
35 a credit under this section.

36 SEC. 34. Section 23622.7 of the Revenue and Taxation Code
37 is amended to read:

38 23622.7. (a) There shall be allowed a credit against the "tax"
39 (as defined by Section 23036) to a taxpayer who employs a

1 qualified employee in an enterprise zone during the taxable year.

2 The credit shall be equal to the sum of each of the following:

3 (1) Fifty percent of qualified wages in the first year of
4 employment.

5 (2) Forty percent of qualified wages in the second year of
6 employment.

7 (3) Thirty percent of qualified wages in the third year of
8 employment.

9 (4) Twenty percent of qualified wages in the fourth year of
10 employment.

11 (5) Ten percent of qualified wages in the fifth year of
12 employment.

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

15 (A) (i) Except as provided in clause (ii), that portion of wages
16 paid or incurred by the taxpayer during the taxable year to qualified
17 employees that does not exceed 150 percent of the minimum wage.

18 (ii) For up to 1,350 qualified employees who are employed by
19 the taxpayer in the Long Beach Enterprise Zone in aircraft
20 manufacturing activities described in Codes ~~3721 to 3728,~~
21 ~~inclusive, and Code 3812 of the Standard Industrial Classification~~
22 ~~(SIC) Manual 311 to 339, inclusive, of the North American Industry~~
23 ~~Classification System~~ published by the United States Office of
24 Management and Budget, ~~1987~~ 2007 edition, “qualified wages”
25 means that portion of hourly wages that does not exceed 202
26 percent of the minimum wage.

27 (B) Wages received during the 60-month period beginning with
28 the first day the employee commences employment with the
29 taxpayer. Reemployment in connection with any increase, including
30 a regularly occurring seasonal increase, in the trade or business
31 operations of the taxpayer does not constitute commencement of
32 employment for purposes of this section.

33 (C) Qualified wages do not include any wages paid or incurred
34 by the taxpayer on or after the zone expiration date. However,
35 wages paid or incurred with respect to qualified employees who
36 are employed by the taxpayer within the enterprise zone within
37 the 60-month period prior to the zone expiration date shall continue
38 to qualify for the credit under this section after the zone expiration
39 date, in accordance with all provisions of this section applied as

1 if the enterprise zone designation were still in existence and
2 binding.

3 (2) “Minimum wage” means the wage established by the
4 Industrial Welfare Commission as provided for in Chapter 1
5 (commencing with Section 1171) of Part 4 of Division 2 of the
6 Labor Code.

7 (3) “Zone expiration date” means the date the enterprise zone
8 designation expires, is no longer binding, or becomes inoperative.

9 (4) (A) “Qualified employee” means an individual who *was*
10 *hired by a taxpayer before January 1, 2011, and who* meets all of
11 the following requirements:

12 (i) At least 90 percent of whose services for the taxpayer during
13 the taxable year are directly related to the conduct of the taxpayer’s
14 trade or business located in an enterprise zone.

15 (ii) Performs at least 50 percent of his or her services for the
16 taxpayer during the taxable year in an enterprise zone.

17 (iii) Is hired by the taxpayer after the date of original designation
18 of the area in which services were performed as an enterprise zone.

19 (iv) Is any of the following:

20 ~~(I) Immediately preceding the qualified employee’s~~
21 ~~commencement of employment with the taxpayer, was a person~~
22 ~~eligible for services under the federal Job Training Partnership~~
23 ~~Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,~~
24 ~~or is eligible to receive, subsidized employment, training, or~~
25 ~~services funded by the federal Job Training Partnership Act, or its~~
26 ~~successor.~~

27 ~~(II) Immediately preceding the qualified employee’s~~
28 ~~commencement of employment with the taxpayer, was a person~~
29 ~~eligible to be a voluntary or mandatory registrant under the Greater~~
30 ~~Avenues for Independence Act of 1985 (GAIN) provided for~~
31 ~~pursuant to Article 3.2 (commencing with Section 11320) of~~
32 ~~Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~
33 ~~Code, or its successor.~~

34 ~~(III)~~

35 ~~(I)~~ Immediately preceding the qualified employee’s
36 commencement of employment with the taxpayer, was an
37 economically disadvantaged individual 14 years of age or older.

38 ~~(IV)~~

1 (II) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a dislocated
3 worker who meets any of the following:

4 (aa) Has been terminated or laid off or who has received a notice
5 of termination or layoff from employment, is eligible for or has
6 exhausted entitlement to unemployment insurance benefits, and
7 is unlikely to return to his or her previous industry or occupation.

8 (bb) Has been terminated or has received a notice of termination
9 of employment as a result of any permanent closure or any
10 substantial layoff at a plant, facility, or enterprise, including an
11 individual who has not received written notification but whose
12 employer has made a public announcement of the closure or layoff.

13 (cc) Is long-term unemployed and has limited opportunities for
14 employment or reemployment in the same or a similar occupation
15 in the area in which the individual resides, including an individual
16 55 years of age or older who may have substantial barriers to
17 employment by reason of age.

18 (dd) Was self-employed (including farmers and ranchers) and
19 is unemployed as a result of general economic conditions in the
20 community in which he or she resides or because of natural
21 disasters.

22 (ee) Was a civilian employee of the Department of Defense
23 employed at a military installation being closed or realigned under
24 the Defense Base Closure and Realignment Act of 1990.

25 (ff) Was an active member of the Armed Forces or National
26 Guard as of September 30, 1990, and was either involuntarily
27 separated or separated pursuant to a special benefits program.

28 (gg) Is a seasonal or migrant worker who experiences chronic
29 seasonal unemployment and underemployment in the agriculture
30 industry, aggravated by continual advancements in technology and
31 mechanization.

32 (hh) Has been terminated or laid off, or has received a notice
33 of termination or layoff, as a consequence of compliance with the
34 *federal* Clean Air Act.

35 (V)

36 (III) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a disabled
38 individual who is eligible for or enrolled in, or has completed a
39 state rehabilitation plan ~~or is~~.

1 (IV) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a
3 service-connected disabled veteran, veteran of the Vietnam era,
4 or veteran who is recently separated from military service.

5 ~~(VI)~~

6 (V) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was an
8 ex-offender. An individual shall be treated as convicted if he or
9 she was placed on probation by a state court without a finding of
10 guilt.

11 ~~(VII)~~

12 (VI) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a person
14 eligible for or a recipient of any of the following:

15 (aa) Federal Supplemental Security Income benefits.

16 ~~(bb) Aid to Families with Dependent Children Temporary~~
17 ~~Assistance for Needy Families.~~

18 (cc) Medi-Cal or Healthy Families.

19 ~~(ee)~~

20 (dd) Food stamps.

21 ~~(dd)~~

22 (ee) State and local general assistance.

23 (ff) Intensive services, including employment training services,
24 funded through the federal Workforce Investment Act (Public Law
25 105-220).

26 (gg) Voluntary or mandatory services under the California Work
27 Opportunity and Responsibility to Kids (CalWORKs) program
28 (Chapter 2 (commencing with Section 11200) of Part 3 of Division
29 9 of the Welfare and Institutions Code).

30 (hh) Federal Work Opportunity Tax Credit (Section 51 of the
31 Internal Revenue Code).

32 ~~(VIII)~~

33 (VII) Immediately preceding the qualified employee's
34 commencement of employment with the taxpayer, was a member
35 of a federally recognized Indian tribe, band, or other group of
36 Native American descent.

37 ~~(IX)~~

38 (VIII) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a resident

1 of a targeted employment area (as defined in Section 7072 of the
2 Government Code).

3 ~~(X)~~

4 (IX) An employee who qualified the taxpayer for the enterprise
5 zone hiring credit under former Section 23622 or the program area
6 hiring credit under former Section 23623.

7 ~~(XI) Immediately preceding the qualified employee's~~
8 ~~commencement of employment with the taxpayer, was a member~~
9 ~~of a targeted group, as defined in Section 51(d) of the Internal~~
10 ~~Revenue Code, or its successor.~~

11 (B) Priority for employment shall be provided to an individual
12 who is enrolled in a qualified program under the federal ~~Job~~
13 ~~Training Partnership Act or the Greater Avenues for Independence~~
14 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~
15 or who is eligible as a member of a targeted group under the Work
16 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
17 or its successor.

18 (5) "Taxpayer" means a corporation engaged in a trade or
19 business within an enterprise zone designated pursuant to Chapter
20 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
21 the Government Code.

22 (6) "Seasonal employment" means employment by a taxpayer
23 that has regular and predictable substantial reductions in trade or
24 business operations.

25 (c) The taxpayer shall do both of the following:

26 (1) Obtain from the Employment Development Department, as
27 permitted by federal law, the local county or city ~~Job Training~~
28 ~~Partnership Act administrative entity, the local county GAIN~~
29 ~~federal Workforce Investment Act administrative entity, the local~~
30 ~~county CalWORKs program office or social services agency, or~~
31 the local government administering the enterprise zone, a
32 certification that provides that a qualified employee meets the
33 eligibility requirements specified in clause (iv) of subparagraph
34 (A) of paragraph (4) of subdivision (b). The Employment
35 Development Department may provide preliminary screening and
36 referral to a certifying agency. ~~The Employment Development~~
37 ~~Department shall develop a form for this purpose businesses~~
38 ~~located in a zone as part of the department's implementation of~~
39 ~~the intensive services activities funded through the federal~~
40 ~~Workforce Investment Act.~~ The Department of Housing and

1 Community Development shall develop regulations governing the
2 issuance of certificates by local governments pursuant to
3 subdivision (a) of Section 7086 of the Government Code.

4 (2) Retain a copy of the certification and provide it upon request
5 to the Franchise Tax Board.

6 (d) (1) For purposes of this section:

7 (A) All employees of all corporations which are members of
8 the same controlled group of corporations shall be treated as
9 employed by a single taxpayer.

10 (B) The credit, if any, allowable by this section to each member
11 shall be determined by reference to its proportionate share of the
12 expense of the qualified wages giving rise to the credit, and shall
13 be allocated in that manner.

14 (C) For purposes of this subdivision, “controlled group of
15 corporations” means “controlled group of corporations” as defined
16 in Section 1563(a) of the Internal Revenue Code, except that:

17 (i) “More than 50 percent” shall be substituted for “at least 80
18 percent” each place it appears in Section 1563(a)(1) of the Internal
19 Revenue Code.

20 (ii) The determination shall be made without regard to
21 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
22 Revenue Code.

23 (2) If an employer acquires the major portion of a trade or
24 business of another employer (hereinafter in this paragraph referred
25 to as the “predecessor”) or the major portion of a separate unit of
26 a trade or business of a predecessor, then, for purposes of applying
27 this section (other than subdivision (e)) for any calendar year
28 ending after that acquisition, the employment relationship between
29 a qualified employee and an employer shall not be treated as
30 terminated if the employee continues to be employed in that trade
31 or business.

32 (e) (1) (A) If the employment, other than seasonal employment,
33 of any qualified employee with respect to whom qualified wages
34 are taken into account under subdivision (a) is terminated by the
35 taxpayer at any time during the first 270 days of that employment,
36 whether or not consecutive, or before the close of the 270th
37 calendar day after the day in which that employee completes 90
38 days of employment with the taxpayer, the tax imposed by this
39 part for the taxable year in which that employment is terminated
40 shall be increased by an amount equal to the credit allowed under

1 subdivision (a) for that taxable year and all prior taxable years
2 attributable to qualified wages paid or incurred with respect to that
3 employee.

4 (B) If the seasonal employment of any qualified employee, with
5 respect to whom qualified wages are taken into account under
6 subdivision (a) is not continued by the taxpayer for a period of
7 270 days of employment during the 60-month period beginning
8 with the day the qualified employee commences seasonal
9 employment with the taxpayer, the tax imposed by this part, for
10 the taxable year that includes the 60th month following the month
11 in which the qualified employee commences seasonal employment
12 with the taxpayer, shall be increased by an amount equal to the
13 credit allowed under subdivision (a) for that taxable year and all
14 prior taxable years attributable to qualified wages paid or incurred
15 with respect to that qualified employee.

16 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
17 any of the following:

18 (i) A termination of employment of a qualified employee who
19 voluntarily leaves the employment of the taxpayer.

20 (ii) A termination of employment of a qualified employee who,
21 before the close of the period referred to in subparagraph (A) of
22 paragraph (1), becomes disabled and unable to perform the services
23 of that employment, unless that disability is removed before the
24 close of that period and the taxpayer fails to offer reemployment
25 to that employee.

26 (iii) A termination of employment of a qualified employee, if
27 it is determined that the termination was due to the misconduct (as
28 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
29 the California Code of Regulations) of that employee.

30 (iv) A termination of employment of a qualified employee due
31 to a substantial reduction in the trade or business operations of the
32 taxpayer.

33 (v) A termination of employment of a qualified employee, if
34 that employee is replaced by other qualified employees so as to
35 create a net increase in both the number of employees and the
36 hours of employment.

37 (B) Subparagraph (B) of paragraph (1) shall not apply to any
38 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 employee who voluntarily fails to return to the seasonal
3 employment of the taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 employee who, before the close of the period referred to in
6 subparagraph (B) of paragraph (1), becomes disabled and unable
7 to perform the services of that seasonal employment, unless that
8 disability is removed before the close of that period and the
9 taxpayer fails to offer seasonal employment to that qualified
10 employee.

11 (iii) A failure to continue the seasonal employment of a qualified
12 employee, if it is determined that the failure to continue the
13 seasonal employment was due to the misconduct (as defined in
14 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
15 Code of Regulations) of that qualified employee.

16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the taxpayer.

19 (v) A failure to continue the seasonal employment of a qualified
20 employee, if that qualified employee is replaced by other qualified
21 employees so as to create a net increase in both the number of
22 seasonal employees and the hours of seasonal employment.

23 (C) For purposes of paragraph (1), the employment relationship
24 between the taxpayer and a qualified employee shall not be treated
25 as terminated by either of the following:

26 (i) By a transaction to which Section 381(a) of the Internal
27 Revenue Code applies, if the qualified employee continues to be
28 employed by the acquiring corporation.

29 (ii) By reason of a mere change in the form of conducting the
30 trade or business of the taxpayer, if the qualified employee
31 continues to be employed in that trade or business and the taxpayer
32 retains a substantial interest in that trade or business.

33 (3) Any increase in tax under paragraph (1) shall not be treated
34 as tax imposed by this part for purposes of determining the amount
35 of any credit allowable under this part.

36 (f) Rules similar to the rules provided in Section 46(e) and (h)
37 of the Internal Revenue Code shall apply to both of the following:

38 (1) An organization to which Section 593 of the Internal
39 Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus

1 the payroll factor, and the denominator of which is two. For
2 purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the enterprise zone during
6 the income year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the income year.

9 (B) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the enterprise zone during
11 the income year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the income year.

14 (4) The portion of any credit remaining, if any, after application
15 of this subdivision, shall be carried over to succeeding taxable
16 years, as if it were an amount exceeding the "tax" for the taxable
17 year, as provided in subdivision (i).

18 (k) The changes made to this section by the act adding this
19 subdivision shall apply to taxable years on or after January 1, 1997.

20 *(l) The changes made to this section by the act adding this*
21 *subdivision shall apply only to qualified employees hired prior to*
22 *January 1, 2011.*

23 *(m) This section shall remain in effect only until January 1,*
24 *2017, and as of the that date is repealed.*

25 *SEC. 35. Section 23622.8 of the Revenue and Taxation Code*
26 *is amended to read:*

27 23622.8. (a) For each taxable year beginning on or after
28 January 1, 1998, there shall be allowed a credit against the "tax"
29 (as defined in Section 23036) to a qualified taxpayer for hiring a
30 qualified disadvantaged individual during the taxable year for
31 employment in the manufacturing enhancement area. The credit
32 shall be equal to the sum of each of the following:

33 (1) Fifty percent of the qualified wages in the first year of
34 employment.

35 (2) Forty percent of the qualified wages in the second year of
36 employment.

37 (3) Thirty percent of the qualified wages in the third year of
38 employment.

39 (4) Twenty percent of the qualified wages in the fourth year of
40 employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum wage.

8 (B) The total amount of qualified wages which may be taken
9 into account for purposes of claiming the credit allowed under this
10 section shall not exceed two million dollars (\$2,000,000) per
11 taxable year.

12 (C) Wages received during the 60-month period beginning with
13 the first day the qualified disadvantaged individual commences
14 employment with the qualified taxpayer. Reemployment in
15 connection with any increase, including a regularly occurring
16 seasonal increase, in the trade or business operations of the
17 qualified taxpayer does not constitute commencement of
18 employment for purposes of this section.

19 (D) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the manufacturing
21 enhancement area expiration date. However, wages paid or incurred
22 with respect to qualified employees who are employed by the
23 qualified taxpayer within the manufacturing enhancement area
24 within the 60-month period prior to the manufacturing enhancement
25 area expiration date shall continue to qualify for the credit under
26 this section after the manufacturing enhancement area expiration
27 date, in accordance with all provisions of this section applied as
28 if the manufacturing enhancement area designation were still in
29 existence and binding.

30 (2) “Minimum wage” means the wage established by the
31 Industrial Welfare Commission as provided for in Chapter 1
32 (commencing with Section 1171) of Part 4 of Division 2 of the
33 Labor Code.

34 (3) “Manufacturing enhancement area” means an area designated
35 pursuant to Section 7073.8 of the Government Code according to
36 the procedures of Chapter 12.8 (commencing with Section 7070)
37 of Division 7 of Title 1 of the Government Code.

38 (4) “Manufacturing enhancement area expiration date” means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, or becomes inoperative.

1 (5) “Qualified disadvantaged individual” means an individual
2 who *was hired by a qualified taxpayer before January 1, 2011,*
3 *and who* satisfies all of the following requirements:

4 (A) (i) At least 90 percent of whose services for the qualified
5 taxpayer during the taxable year are directly related to the conduct
6 of the qualified taxpayer’s trade or business located in a
7 manufacturing enhancement area.

8 (ii) Who performs at least 50 percent of his or her services for
9 the qualified taxpayer during the taxable year in the manufacturing
10 enhancement area.

11 (B) Who is hired by the qualified taxpayer after the designation
12 of the area as a manufacturing enhancement area in which the
13 individual’s services were primarily performed.

14 (C) ~~Who is any of the following,~~ immediately preceding the
15 individual’s commencement of employment with the qualified
16 taxpayer, *was certified as eligible by the Employment Development*
17 *Department under the federal Targeted Jobs Tax Credit Program,*
18 *or its successor, whether or not this program is in effect.*

19 ~~(i) An individual who has been determined eligible for services~~
20 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
21 ~~1501 et seq.) or its successor.~~

22 ~~(ii) Any voluntary or mandatory registrant under the Greater~~
23 ~~Avenues for Independence Act of 1985, or its successor, as~~
24 ~~provided pursuant to Article 3.2 (commencing with Section 11320)~~
25 ~~of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~
26 ~~Code.~~

27 ~~(iii) Any individual who has been certified eligible by the~~
28 ~~Employment Development Department under the federal Targeted~~
29 ~~Jobs Tax Credit Program, or its successor, whether or not this~~
30 ~~program is in effect.~~

31 (6) “Qualified taxpayer” means any corporation engaged in a
32 trade or business within a manufacturing enhancement area
33 designated pursuant to Section 7073.8 of the Government Code
34 and that meets all of the following requirements:

35 (A) Is engaged in those lines of business described in Codes
36 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
37 inclusive, of the Standard Industrial Classification (SIC) Manual
38 published by the United States Office of Management and Budget,
39 1987 edition.

1 (B) At least 50 percent of the qualified taxpayer's workforce
2 hired after the designation of the manufacturing enhancement area
3 is composed of individuals who, at the time of hire, are residents
4 of the county in which the manufacturing enhancement area is
5 located.

6 (C) Of this percentage of local hires, at least 30 percent shall
7 be qualified disadvantaged individuals.

8 (7) "Seasonal employment" means employment by a qualified
9 taxpayer that has regular and predictable substantial reductions in
10 trade or business operations.

11 (c) (1) For purposes of this section, all of the following apply:

12 (A) All employees of all corporations that are members of the
13 same controlled group of corporations shall be treated as employed
14 by a single qualified taxpayer.

15 (B) The credit (if any) allowable by this section with respect to
16 each member shall be determined by reference to its proportionate
17 share of the expenses of the qualified wages giving rise to the
18 credit and shall be allocated in that manner.

19 (C) Principles that apply in the case of controlled groups of
20 corporations, as specified in subdivision (d) of Section 23622.7,
21 shall apply with respect to determining employment.

22 (2) If a qualified taxpayer acquires the major portion of a trade
23 or business of another employer (hereinafter in this paragraph
24 referred to as the "predecessor") or the major portion of a separate
25 unit of a trade or business of a predecessor, then, for purposes of
26 applying this section (other than subdivision (d)) for any calendar
27 year ending after that acquisition, the employment relationship
28 between a qualified disadvantaged individual and a qualified
29 taxpayer shall not be treated as terminated if the qualified
30 disadvantaged individual continues to be employed in that trade
31 or business.

32 (d) (1) (A) If the employment, other than seasonal employment,
33 of any qualified disadvantaged individual, with respect to whom
34 qualified wages are taken into account under subdivision (b) is
35 terminated by the qualified taxpayer at any time during the first
36 270 days of that employment (whether or not consecutive) or before
37 the close of the 270th calendar day after the day in which that
38 qualified disadvantaged individual completes 90 days of
39 employment with the qualified taxpayer, the tax imposed by this
40 part for the taxable year in which that employment is terminated

1 shall be increased by an amount equal to the credit allowed under
2 subdivision (a) for that taxable year and all prior taxable years
3 attributable to qualified wages paid or incurred with respect to that
4 qualified disadvantaged individual.

5 (B) If the seasonal employment of any qualified disadvantaged
6 individual, with respect to whom qualified wages are taken into
7 account under subdivision (a) is not continued by the qualified
8 taxpayer for a period of 270 days of employment during the
9 60-month period beginning with the day the qualified
10 disadvantaged individual commences seasonal employment with
11 the qualified taxpayer, the tax imposed by this part, for the income
12 year that includes the 60th month following the month in which
13 the qualified disadvantaged individual commences seasonal
14 employment with the qualified taxpayer, shall be increased by an
15 amount equal to the credit allowed under subdivision (a) for that
16 taxable year and all prior taxable years attributable to qualified
17 wages paid or incurred with respect to that qualified disadvantaged
18 individual.

19 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
20 any of the following:

21 (i) A termination of employment of a qualified disadvantaged
22 individual who voluntarily leaves the employment of the qualified
23 taxpayer.

24 (ii) A termination of employment of a qualified disadvantaged
25 individual who, before the close of the period referred to in
26 subparagraph (A) of paragraph (1), becomes disabled to perform
27 the services of that employment, unless that disability is removed
28 before the close of that period and the qualified taxpayer fails to
29 offer reemployment to that individual.

30 (iii) A termination of employment of a qualified disadvantaged
31 individual, if it is determined that the termination was due to the
32 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
33 of Title 22 of the California Code of Regulations) of that individual.

34 (iv) A termination of employment of a qualified disadvantaged
35 individual due to a substantial reduction in the trade or business
36 operations of the qualified taxpayer.

37 (v) A termination of employment of a qualified disadvantaged
38 individual, if that individual is replaced by other qualified
39 disadvantaged individuals so as to create a net increase in both the
40 number of employees and the hours of employment.

1 (B) Subparagraph (B) of paragraph (1) shall not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual who voluntarily fails to return to the
5 seasonal employment of the qualified taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 disadvantaged individual who, before the close of the period
8 referred to in subparagraph (B) of paragraph (1), becomes disabled
9 and unable to perform the services of that seasonal employment,
10 unless that disability is removed before the close of that period
11 and the qualified taxpayer fails to offer seasonal employment to
12 that qualified disadvantaged individual.

13 (iii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if it is determined that the failure to
15 continue the seasonal employment was due to the misconduct (as
16 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
17 the California Code of Regulations) of that qualified disadvantaged
18 individual.

19 (iv) A failure to continue seasonal employment of a qualified
20 disadvantaged individual due to a substantial reduction in the
21 regular seasonal trade or business operations of the qualified
22 taxpayer.

23 (v) A failure to continue the seasonal employment of a qualified
24 disadvantaged individual, if that qualified disadvantaged individual
25 is replaced by other qualified disadvantaged individuals so as to
26 create a net increase in both the number of seasonal employees
27 and the hours of seasonal employment.

28 (C) For purposes of paragraph (1), the employment relationship
29 between the qualified taxpayer and a qualified disadvantaged
30 individual shall not be treated as terminated by either of the
31 following:

32 (i) By a transaction to which Section 381(a) of the Internal
33 Revenue Code applies, if the qualified disadvantaged individual
34 continues to be employed by the acquiring corporation.

35 (ii) By reason of a mere change in the form of conducting the
36 trade or business of the qualified taxpayer, if the qualified
37 disadvantaged individual continues to be employed in that trade
38 or business and the qualified taxpayer retains a substantial interest
39 in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a manufacturing enhancement area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the manufacturing

1 enhancement area during the taxable year, and the denominator
2 of which is the average value of all the taxpayer's real and tangible
3 personal property owned or rented and used in this state during
4 the taxable year.

5 (B) The payroll factor is a fraction, the numerator of which is
6 the total amount paid by the taxpayer in the manufacturing
7 enhancement area during the taxable year for compensation, and
8 the denominator of which is the total compensation paid by the
9 taxpayer in this state during the taxable year.

10 (4) The portion of any credit remaining, if any, after application
11 of this subdivision, shall be carried over to succeeding taxable
12 years, as if it were an amount exceeding the "tax" for the taxable
13 year, as provided in subdivision (g).

14 (h) If the taxpayer is allowed a credit pursuant to this section
15 for qualified wages paid or incurred, only one credit shall be
16 allowed to the taxpayer under this part with respect to any wage
17 consisting in whole or in part of those qualified wages.

18 (i) The qualified taxpayer shall do both of the following:

19 (1) Obtain from the Employment Development Department, as
20 permitted by federal law, the local county or city ~~Job Training~~
21 ~~Partnership Act administrative entity, the local county GAIN office~~
22 *federal Workforce Investment Act of 1998 administrative entity,*
23 *the local county CalWORKs program office* or social services
24 agency, or the local government administering the manufacturing
25 enhancement area, a certification that provides that a qualified
26 disadvantaged individual meets the eligibility requirements
27 specified in paragraph (5) of subdivision (b). The Employment
28 Development Department may provide preliminary screening and
29 referral to a certifying agency. The Department of Housing and
30 Community Development shall develop regulations governing the
31 issuance of certificates pursuant to subdivision (d) of Section 7086
32 of the Government Code and shall develop forms for this purpose.

33 (2) Retain a copy of the certification and provide it upon request
34 to the Franchise Tax Board.

35 (j) *This section shall remain in effect only until January 1, 2017,*
36 *and as of that date is repealed.*

37 *SEC. 36. Section 23633 of the Revenue and Taxation Code is*
38 *amended to read:*

39 23633. (a) For each taxable year beginning on or after January
40 1, 1998, there shall be allowed as a credit against the "tax" (as

1 defined by Section 23036) for the taxable year an amount equal
2 to the sales or use tax paid or incurred during the taxable year by
3 the qualified taxpayer in connection with the qualified taxpayer's
4 purchase of qualified property.

5 (b) For purposes of this section:

6 (1) "Qualified property" means property that meets all of the
7 following requirements:

8 (A) Is any of the following:

9 (i) Machinery and machinery parts used for fabricating,
10 processing, assembling, and manufacturing.

11 (ii) Machinery and machinery parts used for the production of
12 renewable energy resources.

13 (iii) Machinery and machinery parts used for either of the
14 following:

15 (I) Air pollution control mechanisms.

16 (II) Water pollution control mechanisms.

17 (iv) Data-processing and communications equipment, such as
18 computers, computer-automated drafting systems, copy machines,
19 telephone systems, and faxes.

20 (v) Motion picture manufacturing equipment central to
21 production and post production, such as cameras, audio recorders,
22 and digital image and sound processing equipment.

23 (B) The total cost of qualified property purchased and placed
24 in service in any taxable year that may be taken into account by
25 any qualified taxpayer for purposes of claiming this credit shall
26 not exceed twenty million dollars (\$20,000,000).

27 (C) The qualified property is used by the qualified taxpayer
28 exclusively in a targeted tax area.

29 (D) The qualified property is purchased and placed in service
30 before the date the targeted tax area designation expires, is revoked,
31 is no longer binding, or becomes inoperative.

32 (2) (A) "Qualified taxpayer" means a corporation that meets
33 both of the following:

34 (i) Is engaged in a trade or business within a targeted tax area
35 designated pursuant to Chapter 12.93 (commencing with Section
36 7097) of Division 7 of Title 1 of the Government Code.

37 (ii) Is engaged in those lines of business described in Codes
38 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
39 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
40 of the Standard Industrial Classification (SIC) Manual published

1 by the United States Office of Management and Budget, 1987
2 edition.

3 (B) In the case of any pass-through entity, the determination of
4 whether a taxpayer is a qualified taxpayer under this section shall
5 be made at the entity level and any credit under this section or
6 Section 17053.33 shall be allowed to the pass-through entity and
7 passed through to the partners or shareholders in accordance with
8 applicable provisions of this part or Part 10 (commencing with
9 Section 17001). For purposes of this subparagraph, the term
10 “pass-through entity” means any partnership or S corporation.

11 (3) “Targeted tax area” means the area designated pursuant to
12 Chapter 12.93 (commencing with Section 7097) of Division 7 of
13 Title 1 of the Government Code.

14 (c) If the qualified taxpayer is allowed a credit for qualified
15 property pursuant to this section, only one credit shall be allowed
16 to the taxpayer under this part with respect to that qualified
17 property.

18 (d) If the qualified taxpayer has purchased property upon which
19 a use tax has been paid or incurred, the credit provided by this
20 section shall be allowed only if qualified property of a comparable
21 quality and price is not timely available for purchase in this state.

22 (e) In the case where the credit otherwise allowed under this
23 section exceeds the “tax” for the taxable year, that portion of the
24 credit that exceeds the “tax” may be carried over and added to the
25 credit, if any, in the following year, and *the* succeeding 14 years
26 if necessary, until the credit is exhausted. The credit shall be
27 applied first to the earliest taxable years possible.

28 (f) Any qualified taxpayer who elects to be subject to this section
29 shall not be entitled to increase the basis of the qualified property
30 as otherwise required by Section 164(a) of the Internal Revenue
31 Code with respect to sales or use tax paid or incurred in connection
32 with the qualified taxpayer’s purchase of qualified property.

33 (g) (1) The amount of credit otherwise allowed under this
34 section and Section 23634, including any credit carryover from
35 prior years, that may reduce the “tax” for the taxable year shall
36 not exceed the amount of tax that would be imposed on the
37 qualified taxpayer’s business income attributable to the targeted
38 tax area determined as if that attributable income represented all
39 of the income of the qualified taxpayer subject to tax under this
40 part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (e).

(5) In the event that a credit carryover is allowable under subdivision (e) for any taxable year after the targeted tax area designation has expired, has been revoked, is no longer binding, or has become inoperative, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(h) A taxpayer shall be required to register a business pursuant Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code, and shall state under penalty of perjury that the taxpayer is a registered business in one or more

1 *targeted tax areas, as a condition of claiming a credit under this*
2 *section.*

3 ~~(h)~~

4 (i) The changes made to this section by the act adding this
5 subdivision shall apply to taxable years beginning on or after
6 January 1, 1998.

7 (j) *The changes made to this section by the act adding this*
8 *subdivision shall apply to taxable years beginning on or after*
9 *January 1, 2011.*

10 SEC. 37. *Section 23634 of the Revenue and Taxation Code is*
11 *amended to read:*

12 23634. (a) For each taxable year beginning on or after January
13 1, 1998, there shall be allowed a credit against the “tax” (as defined
14 by Section 23036) to a qualified taxpayer who employs a qualified
15 employee in a targeted tax area during the taxable year. The credit
16 shall be equal to the sum of each of the following:

17 (1) Fifty percent of qualified wages in the first year of
18 employment.

19 (2) Forty percent of qualified wages in the second year of
20 employment.

21 (3) Thirty percent of qualified wages in the third year of
22 employment.

23 (4) Twenty percent of qualified wages in the fourth year of
24 employment.

25 (5) Ten percent of qualified wages in the fifth year of
26 employment.

27 (b) For purposes of this section:

28 (1) “Qualified wages” means:

29 (A) That portion of wages paid or incurred by the qualified
30 taxpayer during the taxable year to qualified employees that does
31 not exceed 150 percent of the minimum wage.

32 (B) Wages received during the 60-month period beginning with
33 the first day the employee commences employment with the
34 qualified taxpayer. Reemployment in connection with any increase,
35 including a regularly occurring seasonal increase, in the trade or
36 business operations of the qualified taxpayer does not constitute
37 commencement of employment for purposes of this section.

38 (C) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the targeted tax area expiration
40 date. However, wages paid or incurred with respect to qualified

1 employees who are employed by the qualified taxpayer within the
2 targeted tax area within the 60-month period prior to the targeted
3 tax area expiration date shall continue to qualify for the credit
4 under this section after the targeted tax area expiration date, in
5 accordance with all provisions of this section applied as if the
6 targeted tax area designation were still in existence and binding.

7 (2) “Minimum wage” means the wage established by the
8 Industrial Welfare Commission as provided for in Chapter 1
9 (commencing with Section 1171) of Part 4 of Division 2 of the
10 Labor Code.

11 (3) “Targeted tax area expiration date” means the date the
12 targeted tax area designation expires, is revoked, is no longer
13 binding, or becomes inoperative.

14 (4) (A) “Qualified employee” means an individual who *was*
15 *hired by a qualified taxpayer before January 1, 2011, and who*
16 *meets all of the following requirements:*

17 (i) At least 90 percent of his or her services for the qualified
18 taxpayer during the taxable year are directly related to the conduct
19 of the qualified taxpayer’s trade or business located in a targeted
20 tax area.

21 (ii) Performs at least 50 percent of his or her services for the
22 qualified taxpayer during the taxable year in a targeted tax area.

23 (iii) Is hired by the qualified taxpayer after the date of original
24 designation of the area in which services were performed as a
25 targeted tax area.

26 (iv) Is any of the following:

27 ~~(I) Immediately preceding the qualified employee’s~~
28 ~~commencement of employment with the qualified taxpayer, was~~
29 ~~a person eligible for services under the federal Job Training~~
30 ~~Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,~~
31 ~~who is receiving, or is eligible to receive, subsidized employment,~~
32 ~~training, or services funded by the federal Job Training Partnership~~
33 ~~Act, or its successor.~~

34 ~~(II) Immediately preceding the qualified employee’s~~
35 ~~commencement of employment with the qualified taxpayer, was~~
36 ~~a person eligible to be a voluntary or mandatory registrant under~~
37 ~~the Greater Avenues for Independence Act of 1985 (GAIN)~~
38 ~~provided for pursuant to Article 3.2 (commencing with Section~~
39 ~~11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and~~
40 ~~Institutions Code, or its successor.~~

1 ~~(III)~~

2 (I) Immediately preceding the qualified employee's
3 commencement of employment with the qualified taxpayer, was
4 an economically disadvantaged individual 14 years of age or older.

5 ~~(IV)~~

6 (II) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 a dislocated worker who meets any of the following:

9 (aa) Has been terminated or laid off or who has received a notice
10 of termination or layoff from employment, is eligible for or has
11 exhausted entitlement to unemployment insurance benefits, and
12 is unlikely to return to his or her previous industry or occupation.

13 (bb) Has been terminated or has received a notice of termination
14 of employment as a result of any permanent closure or any
15 substantial layoff at a plant, facility, or enterprise, including an
16 individual who has not received written notification but whose
17 employer has made a public announcement of the closure or layoff.

18 (cc) Is long-term unemployed and has limited opportunities for
19 employment or reemployment in the same or a similar occupation
20 in the area in which the individual resides, including an individual
21 55 years of age or older who may have substantial barriers to
22 employment by reason of age.

23 (dd) Was self-employed (including farmers and ranchers) and
24 is unemployed as a result of general economic conditions in the
25 community in which he or she resides or because of natural
26 disasters.

27 (ee) Was a civilian employee of the Department of Defense
28 employed at a military installation being closed or realigned under
29 the Defense Base Closure and Realignment Act of 1990.

30 (ff) Was an active member of the Armed Forces or National
31 Guard as of September 30, 1990, and was either involuntarily
32 separated or separated pursuant to a special benefits program.

33 (gg) Is a seasonal or migrant worker who experiences chronic
34 seasonal unemployment and underemployment in the agriculture
35 industry, aggravated by continual advancements in technology and
36 mechanization.

37 (hh) Has been terminated or laid off, or has received a notice
38 of termination or layoff, as a consequence of compliance with the
39 *federal* Clean Air Act.

40 (V)

1 (III) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a disabled individual who is eligible for or enrolled in, or has
4 completed a state rehabilitation plan ~~or is~~.

5 (IV) *Immediately preceding the qualified employee's*
6 *commencement of employment with taxpayer, was a*
7 *service-connected disabled veteran, veteran of the Vietnam era,*
8 *or veteran who is recently separated from military service.*

9 ~~(VI)~~

10 (V) Immediately preceding the qualified employee's
11 commencement of employment with the qualified taxpayer, was
12 an ex-offender. An individual shall be treated as convicted if he
13 or she was placed on probation by a state court without a finding
14 of guilt.

15 ~~(VII)~~

16 (VI) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a person eligible for or a recipient of any of the following:

19 (aa) Federal Supplemental Security Income benefits.

20 (bb) Aid to Families with Dependent Children.

21 (cc) Food stamps.

22 (dd) State and local general assistance.

23 ~~(VIII)~~

24 (VII) Immediately preceding the qualified employee's
25 commencement of employment with the qualified taxpayer, was
26 a member of a federally recognized Indian tribe, band, or other
27 group of Native American descent.

28 ~~(IX)~~

29 (VIII) Immediately preceding the qualified employee's
30 commencement of employment with the qualified taxpayer, was
31 a resident of a targeted tax area.

32 ~~(X)~~

33 (IX) Immediately preceding the qualified employee's
34 commencement of employment with the taxpayer, was a member
35 of a targeted group, as defined in Section 51(d) of the Internal
36 Revenue Code, or its successor.

37 (B) Priority for employment shall be provided to an individual
38 who is enrolled in a qualified program under the federal ~~Job~~
39 ~~Training Partnership Act or the Greater Avenues for Independence~~
40 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~

1 or who is eligible as a member of a targeted group under the Work
2 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
3 or its successor.

4 (5) (A) “Qualified taxpayer” means a person or entity that meets
5 both of the following:

6 (i) Is engaged in a trade or business within a targeted tax area
7 designated pursuant to Chapter 12.93 (commencing with Section
8 7097) of Division 7 of Title 1 of the Government Code.

9 (ii) Is engaged in those lines of business described in Codes
10 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
11 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
12 of the Standard Industrial Classification (SIC) Manual published
13 by the United States Office of Management and Budget, 1987
14 edition.

15 (B) In the case of any passthrough entity, the determination of
16 whether a taxpayer is a qualified taxpayer under this section shall
17 be made at the entity level and any credit under this section or
18 Section 17053.34 shall be allowed to the passthrough entity and
19 passed through to the partners or shareholders in accordance with
20 applicable provisions of this part or Part 10 (commencing with
21 Section 17001). For purposes of this subparagraph, the term
22 “passthrough entity” means any partnership or S corporation.

23 (6) “Seasonal employment” means employment by a qualified
24 taxpayer that has regular and predictable substantial reductions in
25 trade or business operations.

26 (c) If the qualified taxpayer is allowed a credit for qualified
27 wages pursuant to this section, only one credit shall be allowed to
28 the taxpayer under this part with respect to those qualified wages.

29 (d) The qualified taxpayer shall do both of the following:

30 (1) Obtain from the Employment Development Department, as
31 permitted by federal law, the local county or city ~~Job Training~~
32 ~~Partnership Act administrative entity, the local county GAIN office~~
33 *federal Workforce Investment of 1998 administrative entity, the*
34 *local county CalWORKs program office* or social services agency,
35 or the local government administering the targeted tax area, a
36 certification that provides that a qualified employee meets the
37 eligibility requirements specified in clause (iv) of subparagraph
38 (A) of paragraph (4) of subdivision (b). The Employment
39 Development Department may provide preliminary screening and
40 referral to a certifying agency. The Department of Housing and

1 Community Development shall develop regulations for the issuance
2 of certificates pursuant to subdivision (g) of Section 7097 of the
3 Government Code, and shall develop forms for this purpose.

4 (2) Retain a copy of the certification and provide it upon request
5 to the Franchise Tax Board.

6 (e) (1) For purposes of this section:

7 (A) All employees of all corporations that are members of the
8 same controlled group of corporations shall be treated as employed
9 by a single taxpayer.

10 (B) The credit, if any, allowable by this section to each member
11 shall be determined by reference to its proportionate share of the
12 expense of the qualified wages giving rise to the credit, and shall
13 be allocated in that manner.

14 (C) For purposes of this subdivision, “controlled group of
15 corporations” means “controlled group of corporations” as defined
16 in Section 1563(a) of the Internal Revenue Code, except that:

17 (i) “More than 50 percent” shall be substituted for “at least 80
18 percent” each place it appears in Section 1563(a)(1) of the Internal
19 Revenue Code.

20 (ii) The determination shall be made without regard to
21 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
22 Revenue Code.

23 (2) If an employer acquires the major portion of a trade or
24 business of another employer (hereinafter in this paragraph referred
25 to as the “predecessor”) or the major portion of a separate unit of
26 a trade or business of a predecessor, then, for purposes of applying
27 this section (other than subdivision (f)) for any calendar year ending
28 after that acquisition, the employment relationship between a
29 qualified employee and an employer shall not be treated as
30 terminated if the employee continues to be employed in that trade
31 or business.

32 (f) (1) (A) If the employment, other than seasonal employment,
33 of any qualified employee with respect to whom qualified wages
34 are taken into account under subdivision (a) is terminated by the
35 qualified taxpayer at any time during the first 270 days of that
36 employment (whether or not consecutive) or before the close of
37 the 270th calendar day after the day in which that employee
38 completes 90 days of employment with the qualified taxpayer, the
39 tax imposed by this part for the taxable year in which that
40 employment is terminated shall be increased by an amount equal

1 to the credit allowed under subdivision (a) for that taxable year
2 and all prior taxable years attributable to qualified wages paid or
3 incurred with respect to that employee.

4 (B) If the seasonal employment of any qualified employee, with
5 respect to whom qualified wages are taken into account under
6 subdivision (a) is not continued by the qualified taxpayer for a
7 period of 270 days of employment during the 60-month period
8 beginning with the day the qualified employee commences seasonal
9 employment with the qualified taxpayer, the tax imposed by this
10 part, for the taxable year that includes the 60th month following
11 the month in which the qualified employee commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified employee.

16 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
17 any of the following:

18 (i) A termination of employment of a qualified employee who
19 voluntarily leaves the employment of the qualified taxpayer.

20 (ii) A termination of employment of a qualified employee who,
21 before the close of the period referred to in subparagraph (A) of
22 paragraph (1), becomes disabled and unable to perform the services
23 of that employment, unless that disability is removed before the
24 close of that period and the qualified taxpayer fails to offer
25 reemployment to that employee.

26 (iii) A termination of employment of a qualified employee, if
27 it is determined that the termination was due to the misconduct (as
28 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
29 the California Code of Regulations) of that employee.

30 (iv) A termination of employment of a qualified employee due
31 to a substantial reduction in the trade or business operations of the
32 taxpayer.

33 (v) A termination of employment of a qualified employee, if
34 that employee is replaced by other qualified employees so as to
35 create a net increase in both the number of employees and the
36 hours of employment.

37 (B) Subparagraph (B) of paragraph (1) shall not apply to any
38 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 employee who voluntarily fails to return to the seasonal
3 employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 employee who, before the close of the period referred to in
6 subparagraph (B) of paragraph (1), becomes disabled and unable
7 to perform the services of that seasonal employment, unless that
8 disability is removed before the close of that period and the
9 qualified taxpayer fails to offer seasonal employment to that
10 qualified employee.

11 (iii) A failure to continue the seasonal employment of a qualified
12 employee, if it is determined that the failure to continue the
13 seasonal employment was due to the misconduct (as defined in
14 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
15 Code of Regulations) of that qualified employee.

16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the qualified taxpayer.

19 (v) A failure to continue the seasonal employment of a qualified
20 employee, if that qualified employee is replaced by other qualified
21 employees so as to create a net increase in both the number of
22 seasonal employees and the hours of seasonal employment.

23 (C) For purposes of paragraph (1), the employment relationship
24 between the qualified taxpayer and a qualified employee shall not
25 be treated as terminated by either of the following:

26 (i) By a transaction to which Section 381(a) of the Internal
27 Revenue Code applies, if the qualified employee continues to be
28 employed by the acquiring corporation.

29 (ii) By reason of a mere change in the form of conducting the
30 trade or business of the qualified taxpayer, if the qualified
31 employee continues to be employed in that trade or business and
32 the qualified taxpayer retains a substantial interest in that trade or
33 business.

34 (3) Any increase in tax under paragraph (1) shall not be treated
35 as tax imposed by this part for purposes of determining the amount
36 of any credit allowable under this part.

37 (g) Rules similar to the rules provided in Sections 46(e) and (h)
38 of the Internal Revenue Code shall apply to both of the following:

39 (1) An organization to which Section 593 of the Internal
40 Revenue Code applies.

1 (2) A regulated investment company or a real estate investment
2 trust subject to taxation under this part.

3 (h) For purposes of this section, “targeted tax area” means an
4 area designated pursuant to Chapter 12.93 (commencing with
5 Section 7097) of Division 7 of Title 1 of the Government Code.

6 (i) In the case where the credit otherwise allowed under this
7 section exceeds the “tax” for the taxable year, that portion of the
8 credit that exceeds the “tax” may be carried over and added to the
9 credit, if any, in succeeding taxable years, until the credit is
10 exhausted. The credit shall be applied first to the earliest taxable
11 years possible.

12 (j) (1) The amount of the credit otherwise allowed under this
13 section and Section 23633, including any credit carryover from
14 prior years, that may reduce the “tax” for the taxable year shall
15 not exceed the amount of tax that would be imposed on the
16 qualified taxpayer’s business income attributable to the targeted
17 tax area determined as if that attributable income represented all
18 of the income of the qualified taxpayer subject to tax under this
19 part.

20 (2) Attributable income shall be that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 targeted tax area. For that purpose, the taxpayer’s business income
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101).
25 That business income shall be further apportioned to the targeted
26 tax area in accordance with Article 2 (commencing with Section
27 25120) of Chapter 17, modified for purposes of this section in
28 accordance with paragraph (3).

29 (3) Business income shall be apportioned to the targeted tax
30 area by multiplying the total California business income of the
31 taxpayer by a fraction, the numerator of which is the property
32 factor plus the payroll factor, and the denominator of which is two.
33 For purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the targeted tax area during
37 the taxable year, and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the targeted tax area during
3 the taxable year for compensation, and the denominator of which
4 is the total compensation paid by the taxpayer in this state during
5 the taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, as if it were an amount exceeding the “tax” for the taxable
9 year, as provided in subdivision (h).

10 (5) In the event that a credit carryover is allowable under
11 subdivision (h) for any taxable year after the targeted tax area
12 designation has expired or been revoked, the targeted tax area shall
13 be deemed to remain in existence for purposes of computing the
14 limitation specified in this subdivision.

15 (k) *This section shall remain in effect only until January 1, 2017,*
16 *and as of that date is repealed.*

17 SEC. 38. *Section 23645 of the Revenue and Taxation Code is*
18 *amended to read:*

19 23645. (a) For each taxable year beginning on or after January
20 1, 1995, there shall be allowed as a credit against the “tax” (as
21 defined by Section 23036) for the taxable year an amount equal
22 to the sales or use tax paid or incurred by the taxpayer in
23 connection with the purchase of qualified property to the extent
24 that the qualified property does not exceed a value of twenty
25 million dollars (\$20,000,000).

26 (b) For purposes of this section:

27 (1) “LAMBRA” means a local agency military base recovery
28 area designated in accordance with Section 7114 of the Government
29 Code.

30 (2) “Taxpayer” means a corporation that conducts a trade or
31 business within a LAMBRA and, for the first two taxable years,
32 has a net increase in jobs (defined as 2,000 paid hours per employee
33 per year) of one or more employees in the LAMBRA.

34 (A) The net increase in the number of jobs shall be determined
35 by subtracting the total number of full-time employees (defined
36 as 2,000 paid hours per employee per year) the taxpayer employed
37 in this state in the taxable year prior to commencing business
38 operations in the LAMBRA from the total number of full-time
39 employees the taxpayer employed in this state during the second
40 taxable year after commencing business operations in the

LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees that are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(3) “Qualified property” means property that is each of the following:

(A) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(B) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(C) Any of the following:

(i) High technology equipment, including, but not limited to, computers and electronic processing equipment.

(ii) Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts, and tugs.

(iii) Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels, and tires.

(iv) Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall only be allowed for qualified property manufactured in California unless

1 qualified property of a comparable quality and price is not available
2 for timely purchase and delivery from a California manufacturer.

3 (d) In the case where the credit otherwise allowed under this
4 section exceeds the “tax” for the taxable year, that portion of the
5 credit which exceeds the “tax” may be carried over and added to
6 the credit, if any, in *the following year, and the succeeding 14*
7 *years if necessary*, until the credit is exhausted. The credit shall
8 be applied first to the earliest taxable years possible.

9 (e) Any taxpayer who elects to be subject to this section shall
10 not be entitled to increase the basis of the property as otherwise
11 required by Section 164(a) of the Internal Revenue Code with
12 respect to sales or use tax paid or incurred in connection with the
13 purchase of qualified property.

14 (f) (1) The amount of the credit otherwise allowed under this
15 section and Section 23646, including any credit carryovers from
16 prior years, that may reduce the “tax” for the taxable year shall
17 not exceed the amount of tax that would be imposed on the
18 taxpayer’s business income attributed to a LAMBRA determined
19 as if that attributable income represented all the income of the
20 taxpayer subject to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 LAMBRA. For that purpose, the taxpayer’s business income that
24 is attributable to sources in this state shall first be determined in
25 accordance with Chapter 17 (commencing with Section 25101).
26 That business income shall be further apportioned to the LAMBRA
27 in accordance with Article 2 (commencing with Section 25120)
28 of Chapter 17, modified for purposes of this section in accordance
29 with paragraph (3).

30 (3) Income shall be apportioned to a LAMBRA by multiplying
31 the total California business income of the taxpayer by a fraction,
32 the numerator of which is the property factor, plus the payroll
33 factor, and the denominator of which is two. For purposes of this
34 paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the LAMBRA during the
38 taxable year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (d).

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the LAMBRA, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer’s tax liability in the taxable year of that disposition or nonuse.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer’s tax for the taxpayer’s second taxable year.

(h) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(i) *A taxpayer shall be required to register a business pursuant to the Local Agency Military Base Recovery Area Act (Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more LAMBRA’s, as a condition of claiming a credit under this section.*

(i)

(j) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(k) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.*

SEC. 39. *Section 23646 of the Revenue and Taxation Code is amended to read:*

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the “tax” (as

1 defined in Section 23036) to a qualified taxpayer for hiring a
2 qualified disadvantaged individual or a qualified displaced
3 employee during the taxable year for employment in the LAMBRA.
4 The credit shall be equal to the sum of each of the following:

5 (1) ~~Fifty-Thirty~~ percent of the qualified wages in the first year
6 of employment.

7 (2) Forty percent of the qualified wages in the second year of
8 employment.

9 (3) ~~Thirty-Fifty~~ percent of the qualified wages in the third year
10 of employment.

11 ~~(4) Twenty percent of the qualified wages in the fourth year of~~
12 ~~employment.~~

13 ~~(5) Ten percent of the qualified wages in the fifth year of~~
14 ~~employment.~~

15 (b) For purposes of this section:

16 (1) “Qualified wages” means:

17 (A) (i) That portion of wages paid or incurred by the employer
18 during the taxable year to qualified disadvantaged individuals or
19 qualified displaced employees that does not exceed ~~150~~ 180 percent
20 of the minimum wage.

21 (ii) *For up to 1,350 qualified employees who are employed by*
22 *the taxpayer in aircraft manufacturing activities described in Codes*
23 *311 to 339, inclusive, of the North American Industry Classification*
24 *System published by the United States Office of Management and*
25 *Budget, 2007 edition, “qualified wages” means that portion of*
26 *hourly wages that does not exceed 202 percent of the minimum*
27 *wage.*

28 (B) The total amount of qualified wages which may be taken
29 into account for purposes of claiming the credit allowed under this
30 section shall not exceed two million dollars (\$2,000,000) per
31 taxable year.

32 (C) Wages received during the ~~60-month~~ 36-month period
33 beginning with the first day the individual commences employment
34 with the taxpayer. Reemployment in connection with any increase,
35 including a regularly occurring seasonal increase, in the trade or
36 business operation of the qualified taxpayer does not constitute
37 commencement of employment for purposes of this section.

38 (D) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the LAMBRA expiration date.
40 However, wages paid or incurred with respect to qualified

1 disadvantaged individuals or qualified displaced employees who
2 are employed by the qualified taxpayer within the LAMBRA within
3 the ~~60-month~~ 36-month period prior to the LAMBRA expiration
4 date shall continue to qualify for the credit under this section after
5 the LAMBRA expiration date, in accordance with all provisions
6 of this section applied as if the LAMBRA designation were still
7 in existence and binding.

8 (2) “Minimum wage” means the wage established by the
9 Industrial Welfare Commission as provided for in Chapter 1
10 (commencing with Section 1171) of Part 4 of Division 2 of the
11 Labor Code.

12 (3) “LAMBRA” means a local agency military base recovery
13 area designated in accordance with the provisions of Section 7114
14 of the Government Code.

15 (4) “Qualified disadvantaged individual” means an individual
16 who satisfies all of the following requirements:

17 (A) (i) At least 90 percent of whose services for the taxpayer
18 during the taxable year are directly related to the conduct of the
19 taxpayer’s trade or business located in a LAMBRA.

20 (ii) Who performs at least 50 percent of his or her services for
21 the taxpayer during the taxable year in the LAMBRA.

22 (B) Who is hired by the employer after the designation of the
23 area as a LAMBRA in which the individual’s services were
24 primarily performed.

25 (C) Who is any of the following immediately preceding the
26 individual’s commencement of employment with the taxpayer:

27 ~~(i) An individual who has been determined eligible for services~~
28 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
29 ~~1501 et seq.), or its successor.~~

30 ~~(ii) Any voluntary or mandatory registrant under the Greater~~
31 ~~Avenues for Independence Act of 1985 provided for pursuant to~~
32 ~~Article 3.2 (commencing with Section 11320) of Chapter 2 of Part~~
33 ~~3 of Division 9 of the Welfare and Institutions Code.~~

34 (iii)

35 (i) An economically disadvantaged individual age 16 years or
36 older.

37 (iv)

38 (ii) A dislocated worker who meets any of the following
39 conditions:

1 (I) Has been terminated or laid off or who has received a notice
2 of termination or layoff from employment, is eligible for or has
3 exhausted entitlement to unemployment insurance benefits, and
4 is unlikely to return to his or her previous industry or occupation.

5 (II) Has been terminated or has received a notice of termination
6 of employment as a result of any permanent closure or any
7 substantial layoff at a plant, facility, or enterprise, including an
8 individual who has not received written notification but whose
9 employer has made a public announcement of the closure or layoff.

10 (III) Is long-term unemployed and has limited opportunities for
11 employment or reemployment in the same or a similar occupation
12 in the area in which the individual resides, including an individual
13 55 years of age or older who may have substantial barriers to
14 employment by reason of age.

15 (IV) Was self-employed (including farmers and ranchers) and
16 is unemployed as a result of general economic conditions in the
17 community in which he or she resides or because of natural
18 disasters.

19 (V) Was a civilian employee of the Department of Defense
20 employed at a military installation being closed or realigned under
21 the Defense Base Closure and Realignment Act of 1990.

22 (VI) Was an active member of the Armed Forces or National
23 Guard as of September 30, 1990, and was either involuntarily
24 separated or separated pursuant to a special benefits program.

25 (VII) Experiences chronic seasonal unemployment and
26 underemployment in the agriculture industry, aggravated by
27 continual advancements in technology and mechanization.

28 (VIII) Has been terminated or laid off or has received a notice
29 of termination or layoff as a consequence of compliance with the
30 *federal* Clean Air Act.

31 ~~(v)~~

32 (iii) An individual who is enrolled in or has completed a state
33 rehabilitation plan or is a service-connected disabled veteran,
34 veteran of the Vietnam era, or veteran who is recently separated
35 from military service.

36 ~~(vi)~~

37 (iv) An ex-offender. An individual shall be treated as convicted
38 if he or she was placed on probation by a state court without a
39 finding of guilty.

40 ~~(vii)~~

- 1 (v) A recipient of:
2 (I) Federal Supplemental Security Income benefits.
3 (II) Aid to Families with Dependent Children.
4 (III) Food stamps.
5 (IV) State and local general assistance.

6 ~~(viii)~~

7 (vi) Is a member of a federally recognized Indian tribe, band,
8 or other group of Native American descent.

9 (5) “Qualified taxpayer” means a corporation that conducts a
10 trade or business within a LAMBRA and, for the first two taxable
11 years, has a net increase in jobs (defined as 2,000 paid hours per
12 employee per year) of one or more employees as determined below
13 in the LAMBRA.

14 (A) The net increase in the number of jobs shall be determined
15 by subtracting the total number of full-time employees (defined
16 as 2,000 paid hours per employee per year) the taxpayer employed
17 in this state in the taxable year prior to commencing business
18 operations in the LAMBRA from the total number of full-time
19 employees the taxpayer employed in this state during the second
20 taxable year after commencing business operations in the
21 LAMBRA. For taxpayers who commence doing business in this
22 state with their LAMBRA business operation, the number of
23 employees for the taxable year prior to commencing business
24 operations in the LAMBRA shall be zero. If the taxpayer has a net
25 increase in jobs in the state, the credit shall be allowed only if one
26 or more full-time employees is employed within the LAMBRA.

27 (B) The total number of employees employed in the LAMBRA
28 shall equal the sum of both of the following:

29 (i) The total number of hours worked in the LAMBRA for the
30 taxpayer by employees (not to exceed 2,000 hours per employee)
31 who are paid an hourly wage divided by 2,000.

32 (ii) The total number of months worked in the LAMBRA for
33 the taxpayer by employees who are salaried employees divided
34 by 12.

35 (C) In the case of a qualified taxpayer that first commences
36 doing business in the LAMBRA during the taxable year, for
37 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
38 the divisors “2,000” and “12” shall be multiplied by a fraction, the
39 numerator of which is the number of months of the taxable year

1 that the taxpayer was doing business in the LAMBRA and the
2 denominator of which is 12.

3 (6) “Qualified displaced employee” means an individual who
4 satisfies all of the following requirements:

5 (A) Any civilian or military employee of a base or former base
6 that has been displaced as a result of a federal base closure act.

7 (B) (i) At least 90 percent of whose services for the taxpayer
8 during the taxable year are directly related to the conduct of the
9 taxpayer’s trade or business located in a LAMBRA.

10 (ii) Who performs at least 50 percent of his or her services for
11 the taxpayer during the taxable year in a LAMBRA.

12 (C) Who is hired by the employer after the designation of the
13 area in which services were performed as a LAMBRA.

14 (7) “Seasonal employment” means employment by a qualified
15 taxpayer that has regular and predictable substantial reductions in
16 trade or business operations.

17 (8) “LAMBRA expiration date” means the date the LAMBRA
18 designation expires, is no longer binding, or becomes inoperative.

19 (c) For qualified disadvantaged individuals or qualified displaced
20 employees hired on or after January 1, 2001, the taxpayer shall do
21 both of the following:

22 (1) ~~Obtain~~ *Apply for certification, within 36 months of an*
23 *employee being hired, from the Employment Development*
24 *Department, as permitted by federal law, the administrative entity*
25 *of the local county or city for the federal Job Training Partnership*
26 *Act, or its successor, the local county GAIN office Workforce*
27 *Investment Act of 1998 administrative entity, the local county*
28 *CalWORKs program office or social services agency, or the local*
29 *government administering the LAMBRA, a certification that*
30 *provides that a qualified disadvantaged individual or qualified*
31 *displaced employee meets the eligibility requirements specified*
32 *in subparagraph (C) of paragraph (4) of subdivision (b) or*
33 *subparagraph (A) of paragraph (6) of subdivision (b). The*
34 *Employment Development Department may provide preliminary*
35 *screening and referral to a certifying agency. The Department of*
36 *Housing and Community Development shall develop regulations*
37 *governing the issuance of certificates pursuant to Section 7114.2*
38 *of the Government Code and shall develop forms for this purpose.*

39 (2) Retain a copy of the certification and provide it upon request
40 to the Franchise Tax Board.

1 (d) (1) For purposes of this section, both of the following apply:

2 (A) All employees of all corporations that are members of the
3 same controlled group of corporations shall be treated as employed
4 by a single employer.

5 (B) The credit (if any) allowable by this section to each member
6 shall be determined by reference to its proportionate share of the
7 qualified wages giving rise to the credit.

8 (2) For purposes of this subdivision, “controlled group of
9 corporations” has the meaning given to that term by Section
10 1563(a) of the Internal Revenue Code, except that both of the
11 following apply:

12 (A) “More than 50 percent” shall be substituted for “at least 80
13 percent” each place it appears in Section 1563(a)(1) of the Internal
14 Revenue Code.

15 (B) The determination shall be made without regard to Section
16 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
17 Code.

18 (3) (A) If an employer acquires the major portion of a trade or
19 business of another employer (hereinafter in this paragraph referred
20 to as the “predecessor”) or the major portion of a separate unit of
21 a trade or business of a predecessor, then, for purposes of applying
22 this section (other than subdivision (e)) for any calendar year
23 ending after that acquisition, the employment relationship between
24 an employee and an employer shall not be treated as terminated if
25 the employee continues to be employed in that trade or business.

26 (B) *If a taxpayer relocated to a LAMBRA from within the state,*
27 *the taxpayer shall be allowed a credit only for that number of*
28 *employees that exceeds the number of employees at the previous*
29 *location. The number of employees at the previous location and*
30 *the type of jobs undertaken shall be established by the Employment*
31 *Development Department. Exceptions to this subparagraph shall*
32 *be limited to the following:*

33 (i) *Employees who undertake core work activities or activities*
34 *that are the primary job duties of the employee that are*
35 *significantly different from those activities at the previous location,*
36 *as determined by the Employment Development Department.*

37 (ii) *Employees of taxpayers that receive a bona fide offer to*
38 *relocate to another state.*

39 (iii) *Employees who relocate as a result of a natural disaster,*
40 *civic unrest, or eminent domain proceeding.*

1 (e) (1) (A) If the employment of any employee, other than
2 seasonal employment, with respect to whom qualified wages are
3 taken into account under subdivision (a) is terminated by the
4 taxpayer at any time during the first ~~270~~ 300 days of that
5 employment (whether or not consecutive) or before the close of
6 the ~~270th~~ 300th calendar day after the day in which that employee
7 completes 90 days of employment with the taxpayer, the tax
8 imposed by this part for the taxable year in which that employment
9 is terminated shall be increased by an amount equal to the credit
10 allowed under subdivision (a) for that taxable year and all prior
11 income years attributable to qualified wages paid or incurred with
12 respect to that employee.

13 (B) If the seasonal employment of any qualified disadvantaged
14 individual, with respect to whom qualified wages are taken into
15 account under subdivision (a) is not continued by the qualified
16 taxpayer for a period of ~~270~~ 300 days of employment during the
17 ~~60~~ 36-month period beginning with the day the qualified
18 disadvantaged individual commences seasonal employment with
19 the qualified taxpayer, the tax imposed by this part, for the taxable
20 year that includes the ~~60th~~ 36th month following the month in
21 which the qualified disadvantaged individual commences seasonal
22 employment with the qualified taxpayer, shall be increased by an
23 amount equal to the credit allowed under subdivision (a) for that
24 taxable year and all prior taxable years attributable to qualified
25 wages paid or incurred with respect to that qualified disadvantaged
26 individual.

27 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
28 any of the following:

29 (i) A termination of employment of an employee who voluntarily
30 leaves the employment of the taxpayer.

31 (ii) A termination of employment of an individual who, before
32 the close of the period referred to in paragraph (1), becomes
33 disabled to perform the services of that employment, unless that
34 disability is removed before the close of that period and the
35 taxpayer fails to offer reemployment to that individual.

36 (iii) A termination of employment of an individual, if it is
37 determined that the termination was due to the misconduct (as
38 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
39 the California Code of Regulations) of that individual.

1 (iv) A termination of employment of an individual due to a
2 substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of an individual, if that
5 individual is replaced by other qualified employees so as to create
6 a net increase in both the number of employees and the hours of
7 employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who voluntarily fails to return to the
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual who, before the close of the period
15 referred to in subparagraph (B) of paragraph (1), becomes disabled
16 and unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the qualified taxpayer fails to offer seasonal employment to
19 that qualified disadvantaged individual.

20 (iii) A failure to continue the seasonal employment of a qualified
21 disadvantaged individual, if it is determined that the failure to
22 continue the seasonal employment was due to the misconduct (as
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
24 the California Code of Regulations) of that individual.

25 (iv) A failure to continue seasonal employment of a qualified
26 disadvantaged individual due to a substantial reduction in the
27 regular seasonal trade or business operations of the qualified
28 taxpayer.

29 (v) A failure to continue the seasonal employment of a qualified
30 disadvantaged individual, if that individual is replaced by other
31 qualified disadvantaged individuals so as to create a net increase
32 in both the number of seasonal employees and the hours of seasonal
33 employment.

34 (C) For purposes of paragraph (1), the employment relationship
35 between the taxpayer and an employee shall not be treated as
36 terminated by either of the following:

37 (i) A transaction to which Section 381(a) of the Internal Revenue
38 Code applies, if the employee continues to be employed by the
39 acquiring corporation.

1 (ii) A mere change in the form of conducting the trade or
2 business of the taxpayer, if the employee continues to be employed
3 in that trade or business and the taxpayer retains a substantial
4 interest in that trade or business.

5 (3) Any increase in tax under paragraph (1) shall not be treated
6 as tax imposed by this part for purposes of determining the amount
7 of any credit allowable under this part.

8 (4) At the close of the second taxable year, if the taxpayer has
9 not increased the number of its employees as determined by
10 paragraph (5) of subdivision (b), then the amount of the credit
11 previously claimed shall be added to the taxpayer's tax for the
12 taxpayer's second taxable year.

13 (f) In the case of an organization to which Section 593 of the
14 Internal Revenue Code applies, and a regulated investment
15 company or a real estate investment trust subject to taxation under
16 this part, rules similar to the rules provided in Section 46(e) and
17 Section 46(h) of the Internal Revenue Code shall apply.

18 (g) The credit shall be reduced by the credit allowed under
19 Section 23621. The credit shall also be reduced by the federal
20 credit allowed under Section 51 of the Internal Revenue Code.

21 In addition, any deduction otherwise allowed under this part for
22 the wages or salaries paid or incurred by the taxpayer upon which
23 the credit is based shall be reduced by the amount of the credit,
24 prior to any reduction required by subdivision (h) or (i).

25 (h) In the case where the credit otherwise allowed under this
26 section exceeds the "tax" for the taxable year, that portion of the
27 credit that exceeds the "tax" may be carried over and added to the
28 credit, if any, in *the following year, and the succeeding 14 years*
29 *if necessary*, until the credit is exhausted. The credit shall be
30 applied first to the earliest taxable years possible.

31 (i) (1) The amount of credit otherwise allowed under this section
32 and Section 23645, including any prior year carryovers, that may
33 reduce the "tax" for the taxable year shall not exceed the amount
34 of tax that would be imposed on the taxpayer's business income
35 attributed to a LAMBRA determined as if that attributed income
36 represented all of the income of the taxpayer subject to tax under
37 this part.

38 (2) Attributable income shall be that portion of the taxpayer's
39 California source business income that is apportioned to the
40 LAMBRA. For that purpose, the taxpayer's business income that

1 is attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101).
3 That business income shall be further apportioned to the LAMBRA
4 in accordance with Article 2 (commencing with Section 25120)
5 of Chapter 17, modified for purposes of this section in accordance
6 with paragraph (3).

7 (3) Income shall be apportioned to a LAMBRA by multiplying
8 the total California business income of the taxpayer by a fraction,
9 the numerator of which is the property factor plus the payroll factor,
10 and the denominator of which is two. For purposes of this
11 paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the LAMBRA during the
15 taxable year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the taxable year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the LAMBRA during the
20 taxable year for compensation, and the denominator of which is
21 the total compensation paid by the taxpayer in this state during the
22 taxable year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, as if it were an amount exceeding the "tax" for the taxable
26 year, as provided in subdivision (h).

27 (j) If the taxpayer is allowed a credit pursuant to this section for
28 qualified wages paid or incurred, only one credit shall be allowed
29 to the taxpayer under this part with respect to any wage consisting
30 in whole or in part of those qualified wages.

31 (k) *A credit shall not be allowed under this section to a taxpayer*
32 *that has been notified by the Director of Industrial Relations of a*
33 *final determination, based on the taxpayer's history of significant*
34 *employment violations, that the taxpayer is considered by the*
35 *Department of Industrial Relations as a serious, repeated, and*
36 *willful violator of state employment laws, including, but not limited*
37 *to, demonstrating a failure to successfully abate these violations.*

38 (l) *A taxpayer shall be required to register a business pursuant*
39 *to the Local Agency Military Base Recovery Area Act (Chapter*
40 *12.97 (commencing with Section 7105) of Division 7 of Title 1 of*

1 *the Government Code), and shall state under penalty of perjury*
 2 *that the taxpayer is a registered business in one or more LAMBRAs,*
 3 *as a condition of claiming a credit under this section.*

4 *(m) The changes made to this section by the act adding this*
 5 *subdivision shall apply only to qualified disadvantaged individuals*
 6 *hired by a qualified taxpayer on or after January 1, 2011.*

7 *SEC. 40. Section 24384.5 of the Revenue and Taxation Code*
 8 *is amended to read:*

9 *24384.5. (a) ~~There~~(1) For taxable years beginning on or*
 10 *after January 1, 2011, and before January 1, 2013, there shall be*
 11 *allowed as a deduction in an amount equal to 50 percent of the*
 12 *amount of net interest received by the taxpayer in payment on*
 13 *indebtedness of a person or entity engaged in the conduct of a*
 14 *trade or business located in an enterprise zone.*

15 *(2) For taxable years beginning on or after January 1, 2013,*
 16 *there shall be allowed as a deduction the amount of net interest*
 17 *received by the taxpayer in payment of indebtedness of a person*
 18 *or entity engaged in a trade or business located in an enterprise*
 19 *zone.*

20 *(b) ~~No~~A deduction shall be allowed under this section ~~unless~~*
 21 *only if at the time the indebtedness is incurred each of the following*
 22 *requirements are met:*

23 *(1) The trade or business is located solely within an enterprise*
 24 *zone.*

25 *(2) The indebtedness is incurred solely in connection with*
 26 *activity within the enterprise zone.*

27 *(3) The taxpayer has no equity or other ownership interest in*
 28 *the debtor.*

29 *(c) "Enterprise zone" means an area designated as an enterprise*
 30 *zone pursuant to Chapter 12.8 (commencing with Section 7070)*
 31 *of Division 7 of Title 1 of the Government Code.*

32 *(d) For taxable years beginning on or after January 1, 2011, a*
 33 *taxpayer shall be required to register a business pursuant to the*
 34 *Enterprise Zone Act (Chapter 12.8 (commencing with Section*
 35 *7070) of Division 7 of Title 1 of the Government Code), and shall*
 36 *state under penalty of perjury that the taxpayer has a registered*
 37 *business in one or more enterprise zones, as a condition of claiming*
 38 *a deduction under this section.*

1 (e) *The changes made to this section by the act adding this*
2 *subdivision shall apply only to taxable years beginning on or after*
3 *January 1, 2011.*

4 SEC. 41. *Section 24416.2 of the Revenue and Taxation Code*
5 *is amended to read:*

6 24416.2. (a) The term “qualified taxpayer” as used in Section
7 24416.1 includes a corporation engaged in the conduct of a trade
8 or business within an enterprise zone designated pursuant to
9 Chapter 12.8 (commencing with Section 7070) of Division 7 of
10 Title 1 of the Government Code. For purposes of this subdivision,
11 all of the following shall apply:

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year and a net operating loss for any
14 taxable year beginning on or after the date that the area in which
15 the taxpayer conducts a trade or business is designated as an
16 enterprise zone shall be a net operating loss carryover to each of
17 the 15 taxable years following the taxable year of loss.

18 (2) For purposes of this subdivision:

19 (A) “Net operating loss” means the loss determined under
20 Section 172 of the Internal Revenue Code, as modified by Section
21 24416.1, attributable to the taxpayer’s business activities within
22 the enterprise zone (as defined in Chapter 12.8 (commencing with
23 Section 7070) of Division 7 of Title 1 of the Government Code)
24 prior to the enterprise zone expiration date. That attributable loss
25 shall be determined in accordance with Chapter 17 (commencing
26 with Section 25101), modified for purposes of this subdivision as
27 follows:

28 (i) Loss shall be apportioned to the enterprise zone by
29 multiplying total loss from the business by a fraction, the numerator
30 of which is the property factor plus the payroll factor, and the
31 denominator of which is two.

32 (ii) “The enterprise zone” shall be substituted for “this state.”

33 (B) A net operating loss carryover shall be a deduction only
34 with respect to the taxpayer’s business income attributable to the
35 enterprise zone as defined in Chapter 12.8 (commencing with
36 Section 7070) of Division 7 of Title 1 of the Government Code.

37 (C) Attributable income is that portion of the taxpayer’s
38 California source business income that is apportioned to the
39 enterprise zone. For that purpose, the taxpayer’s business income
40 attributable to sources in this state first shall be determined in

accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:

(i) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(I) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) The changes made to this subdivision by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1998.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

1 (c) If a taxpayer is eligible to qualify under this section and
2 either Section 24416.4, 24416.5, or 24416.6 as a “qualified
3 taxpayer,” with respect to a net operating loss in a taxable year,
4 the taxpayer shall designate which section is to apply to the
5 taxpayer.

6 (d) Notwithstanding Section 24416, the amount of the loss
7 determined under this section, or Section 24416.4, 24416.5, or
8 24416.6 shall be the only net operating loss allowed to be carried
9 over from that taxable year and the designation under subdivision
10 (b) shall be included in the election under Section 24416.1.

11 (e) *This section shall remain in effect only until January 1, 2011,*
12 *and as of that date is repealed.*

13 SEC. 42. *Section 24416.5 of the Revenue and Taxation Code*
14 *is amended to read:*

15 24416.5. (a) For each taxable year beginning on or after
16 January 1, 1995, the term “qualified taxpayer” as used in Section
17 24416.1 includes a taxpayer engaged in the conduct of a trade or
18 business within a LAMBRA. For purposes of this subdivision, all
19 of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any taxable year and, except as provided in
22 subparagraph (B), a net operating loss for any taxable year
23 beginning on or after the date the area in which the taxpayer
24 conducts a trade or business is designated a LAMBRA shall be a
25 net operating loss carryover to each following taxable year that
26 ends before the LAMBRA expiration date or to each of the 15
27 taxable years following the taxable year of loss, if longer.

28 (2) In the case of a financial institution to which Section 585,
29 586, or 593 of the Internal Revenue Code applies, a net operating
30 loss for any taxable year beginning on or after January 1, 1984,
31 shall be a net operating loss carryover to each of the five years
32 following the taxable year of the loss. Subdivision (b) of Section
33 24416.1 shall not apply.

34 (3) “LAMBRA” means a local agency military base recovery
35 area designated in accordance with Section 7114 of the Government
36 Code.

37 (4) “Taxpayer” means a bank or corporation that conducts a
38 trade or business within a LAMBRA and, for the first two taxable
39 years, has a net increase in jobs (defined as 2,000 paid hours per
40 employee per year) of one or more employees in the LAMBRA

1 and this state. For purposes of this paragraph, all of the following
2 shall apply:

3 (A) The net increase in the number of jobs shall be determined
4 by subtracting the total number of full-time employees (defined
5 as 2,000 paid hours per employee per year) the taxpayer employed
6 in this state in the taxable year prior to commencing business
7 operations in the LAMBRA from the total number of full-time
8 employees the taxpayer employed in this state during the second
9 taxable year after commencing business operations in the
10 LAMBRA. For taxpayers who commence doing business in this
11 state with their LAMBRA business operation, the number of
12 employees for the taxable year prior to commencing business
13 operations in the LAMBRA shall be zero. The deduction shall be
14 allowed only if the taxpayer has a net increase in jobs in the state,
15 and if one or more full-time employees are employed within the
16 LAMBRA.

17 (B) The total number of employees employed in the LAMBRA
18 shall equal the sum of both of the following:

19 (i) The total number of hours worked in the LAMBRA for the
20 taxpayer by employees (not to exceed 2,000 hours per employee)
21 who are paid an hourly wage divided by 2,000.

22 (ii) The total number of months worked in the LAMBRA for
23 the taxpayer by employees who are salaried employees divided
24 by 12.

25 (C) In the case of a taxpayer that first commences doing business
26 in the LAMBRA during the taxable year, for purposes of clauses
27 (i) and (ii), respectively, of subparagraph (B) the divisors “2,000”
28 and “12” shall be multiplied by a fraction, the numerator of which
29 is the number of months of the taxable year that the taxpayer was
30 doing business in the LAMBRA and the denominator of which is
31 12.

32 (5) “Net operating loss” means the loss determined under
33 Section 172 of the Internal Revenue Code, as modified by Section
34 24416.1, attributable to the taxpayer’s business activities within a
35 LAMBRA prior to the LAMBRA expiration date. The attributable
36 loss shall be determined in accordance with Chapter 17
37 (commencing with Section 25101), modified for purposes of this
38 section as follows:

39 (A) Loss shall be apportioned to a LAMBRA by multiplying
40 total loss from the business by a fraction, the numerator of which

1 is the property factor plus the payroll factor, and the denominator
2 of which is 2.

3 (B) “The LAMBRA” shall be substituted for “this state.”

4 (6) A net operating loss carryover shall be a deduction only with
5 respect to the taxpayer’s business income attributable to a
6 LAMBRA.

7 (7) Attributable income is that portion of the taxpayer’s
8 California source business income that is apportioned to the
9 LAMBRA. For that purpose, the taxpayer’s business income
10 attributable to sources in this state first shall be determined in
11 accordance with Chapter 17 (commencing with Section 25101).
12 That business income shall be further apportioned to the LAMBRA
13 in accordance with Article 2 (commencing with Section 25120)
14 of Chapter 17, modified as follows:

15 (A) Business income shall be apportioned to a LAMBRA by
16 multiplying total California business income of the taxpayer by a
17 fraction, the numerator of which is the property factor plus the
18 payroll factor, and the denominator of which is two. For purposes
19 of this clause:

20 (i) The property factor is a fraction, the numerator of which is
21 the average value of the taxpayer’s real and tangible personal
22 property owned or rented and used in the LAMBRA during the
23 taxable year, and the denominator of which is the average value
24 of all the taxpayer’s real and tangible personal property owned or
25 rented and used in this state during the taxable year.

26 (ii) The payroll factor is a fraction, the numerator of which is
27 the total amount paid by the taxpayer in the LAMBRA during the
28 taxable year for compensation, and the denominator of which is
29 the total compensation paid by the taxpayer in this state during the
30 taxable year.

31 (B) If a loss carryover is allowable pursuant to this section for
32 any taxable year after the LAMBRA designation has expired, the
33 LAMBRA shall be deemed to remain in existence for purposes of
34 computing the limitation specified in subparagraph (D) and
35 allowing a net operating loss deduction.

36 (8) “LAMBRA expiration date” means the date the LAMBRA
37 designation expires, is no longer binding, or becomes inoperative
38 pursuant to Section 7110 of the Government Code.

39 (b) A taxpayer who qualifies as a “qualified taxpayer” under
40 one or more sections shall, for the taxable year of the net operating

1 loss and any taxable year to which that net operating loss may be
2 carried, designate on the original return filed for each year the
3 section that applies to that taxpayer with respect to that net
4 operating loss. If the taxpayer is eligible to qualify under more
5 than one section, the designation is to be made after taking into
6 account subdivision (c).

7 (c) If a taxpayer is eligible to qualify under this section and
8 either Section 24416.2, 24416.4, or 24416.6 as a “qualified
9 taxpayer,” with respect to a net operating loss in a taxable year,
10 the taxpayer shall designate which section is to apply to the
11 taxpayer.

12 (d) Notwithstanding Section 24416, the amount of the loss
13 determined under this section or Section 24416.2, 24416.4, or
14 24416.6 shall be the only net operating loss allowed to be carried
15 over from that taxable year and the designation under subdivision
16 (b) shall be included in the election under Section 24416.1.

17 (e) This section shall apply to taxable years beginning on and
18 after January 1, 1998.

19 (f) *This section shall remain in effect only until January 1, 2011,*
20 *and as of that date is repealed.*

21 *SEC. 43. Section 24416.11 is added to the Revenue and*
22 *Taxation Code, to read:*

23 *24416.11. Notwithstanding the repeal of Sections 24416.2 and*
24 *24416.5 by the act adding this section, any remaining carryover*
25 *of a net operating loss allowed by Section 24416.2 or 24416.5,*
26 *shall continue to be allowed as a net operating loss carryover to*
27 *subsequent taxable years as provided by those sections as they*
28 *read immediately prior to being repealed.*

29 *SEC. 44. No reimbursement is required by this act pursuant*
30 *to Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section 17556 of*
35 *the Government Code, or changes the definition of a crime within*
36 *the meaning of Section 6 of Article XIII B of the California*
37 *Constitution.*

38 *SEC. 45. This act provides for a tax levy within the meaning*
39 *of Article IV of the Constitution and shall go into immediate effect.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, March 24, 2011. (JR11)**

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